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MINIMIZING TAXES

PART I

SELECTION OF BUSINESS METHODS,
PLACES OF INCORPORATION, PERSONAL DOMI-
CILE, INVESTMENTS, ETC.

PART II

SYNOPSES OF
THE TAX SYSTEMS OF EACH OF THE STATES
AND OF THE UNITED STATES

BY JOHN H. SEARS

OF THE NEW YORK BAR

AUTHOR OF TRUST ESTATES AS BUSINESS COMPANIES
AND OF TRUST COMPANY LAW

1922

VERNON LAW BOOK COMPANY
KANSAS CITY, MO.

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BY
JOHN H. SEARS
(SEARS MIN. TAXES)

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1922

PREFACE

DETERMINATION of tax liability to the federal government and to the several states has become a complicated and difficult task. That phase of the subject which concerns taxability in the future, and which turns upon selection in advance of methods of organization, places of incorporation, ways of doing business, personal domicile, kinds of investment, times, methods, places of sale, and management, is the subject of this book. The title "Minimizing Taxes" was adopted as a means of emphasizing the fact that it is written from the taxpayers' point of view. Nevertheless it is believed that information herein gathered, especially in Part II, will be of service to legislators, tax officials, students, and tax experts in making comparisons of our various tax systems.

It is intended that Part I shall be frank and devoid of that mock patriotism which preaches from the taxing power's vantage point and secretly takes advantage of any loophole in the law. No tricks are advocated or alluded to in this book, except to illustrate the fundamental differences between avoidance and evasion. Opportunities for selection by which future taxes may rightfully be saved are due to discrimination in our taxing systems, generally deliberately adopted by Congress and by our Legislatures to favor or to discourage particular businesses, classes, or methods. That taxpayers should respond to this situation by choosing a place, investment, or method of lesser tax is nothing more than the exercise of prudence.

In the larger sense of the ethics of taxation, taxes should be "universal"; that is to say, they should be borne in some form or other by every one, and they should be "uniform," or distributed as nearly equal as possible. Uniformity of taxation is commanded by nearly every Constitution. It is the criterion by which courts set aside tax legislation flagrantly unfair. Uniformity, however, is an ideal, and the means by which it is to be attained or approached rests primarily in the judgments of members of Congress and of the members of our state Legislatures. These men act in the interest of their constituents in determining who and what they shall tax. When taxpayers of any class are discriminated against, principles of "universality" or "uniformity" have in fact, though not always in a full legal sense, been violated. If such taxpayers have sufficient political influence, and bring that influence to bear, they will remove these violations of principle by causing the repeal or amendment of the undesirable laws. When taxpayers lack this power, as they often do, the only thing left for them is *action which will demonstrate that a government cannot tax beyond productivity, and, when such a tax is laid, other ways of doing business will be found, or it will not be done.*

He who does not seek refuge in the way of lesser tax becomes the victim of discrimination. *He who takes the way of lesser tax helps to guide taxation into a safer highway for all; he hastens the day of recognition of the fact of discrimination; he helps to make prominent evils in the system of taxation, and by his action he proves or disproves theories adopted for the welfare of the greatest number.*

Canard, a French writer, has laid down the rule that every new tax is a bad tax, and every old tax is a good tax. He meant that, if a tax is in effect long enough, all things will become adjusted to it, and the load tends to become equal, like

PREFACE



the leveling of the waters after a storm. If I am right in the conclusion that adoption of tax-saving methods in the shortest time by the largest number hastens legislative correction of evils, or hastens fair economic adjustment thereto, then any book which assists taxpayers in the selection of these methods, written in the spirit of honesty, and intended to be used in the same spirit, will perform a useful service.

The author has found no one more keen in practical effort toward improvement in methods of taxation than tax officials themselves. To their generous help and suggestions he owes much of the material in Part II of this book. It is hoped that study and comparison of this material will lead to a greater appreciation of features in some states which can advantageously be adopted in others, to the end that present terrors of taxation may the sooner become "small by degrees and beautifully less."

JOHN H. SEARS.

37 WALL STREET, New York, N. Y.



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PART II

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MINIMIZING TAXES

PART I

CHAPTER I

INTRODUCTION

AVOIDANCE AND EVASION OF TAXES EXPLAINED AND CONTRASTED

1. The purpose of this book

It is the purpose of this book to arrange for easy reference and briefly to discuss methods of organization, ways and places of doing business, choice of personal domicile, and ownership of kinds of property, with a view to reducing or avoiding taxes in the future. Selection in these matters is caused by systems of federal, state, county, and municipal taxes. Taxable advantage may result from express exemption of various kinds of properties, or differences due to constitutional limitations, or differences intended to benefit or to encourage a particular way of doing business, or a certain class or classes of investment.

Part I consists of a discussion of the factors to be considered in the selection of methods and places of doing business, choice of personal domicile, and kind of investment, from a taxation point of view. Necessarily new ideas on these subjects are constantly being brought forward; those suited only to particular situations, or as yet untested by litigation, or de-

cisions by taxing officials, are purposely omitted. It is expected that lay readers of this work will seek advice from competent counsel before finally deciding upon action on many of the subjects herein discussed. Since initiation in these matters must often be by the taxpayer, this book will have served a useful purpose if it merely starts the inquiry and directs the first steps toward securing a better understanding of his rights by the average person, who has not the time, in the press of other business, to make a careful study of taxation.

Part II consists of a synopsis of the tax systems of each of the states and of the United States. Arrangement under uniformly numbered headings is intended as an assistance to comparison of separate phases of the subject. An important factor in forming a judgment from such comparisons is the giving of due and proper weight to the relative stability of the laws of the states under consideration. It is obvious that the taxing systems of conservative communities can best be relied upon to remain unchanged for the longest time, and, when changed, that they will be the fairest to the taxpayer.

2. Avoidance and evasion of taxes described and contrasted

The term "avoidance" of taxes is used to describe some lawful action aimed to affect *taxability in the future*, as distinguished from "evasion," which refers to some fraud upon the revenue, past, present, or future. The distinction is of the utmost importance, since the courts will set aside a transaction, so far as taxes are concerned, when evasion has been practiced, and federal and state statutes add further penalties and imprisonment in cases of "fraud upon the revenue." Tax avoidance, on the other hand, is an effective and legally innocent method of saving. An expedient by which

a tax is saved or reduced in amount is not wrongful in and of itself, or because it is either simple or complicated.

Illustration of the distinction can most forcibly be made by quotation from opinions by our higher courts. Let us first take cases where the action under examination has been held to constitute avoidance.

3. Illustrative cases constituting tax avoidance— Execution of instruments not subject to stamp tax

The first important case is the decision of the United States Supreme Court in *U. S. v. Isham*.¹ Act June 30, 1864, 13 Stat. 293, imposed a stamp tax on promissory notes. Isham, the superintendent of a mine, gave in payment for expenses, for running the mine, a form of commercial paper known as memorandum checks, instead of promissory notes. The memorandum checks were not immediately payable, and had the same result as if promissory notes had been given. No stamps were attached to them. The government contended that the giving of these post-dated checks constituted evasion of the act and that the amount of the stamp tax should, nevertheless, be imposed. The United States Supreme Court, however, pointed out that memorandum checks were well known in commercial law, and, if the result of using this form of paper was the saving of the tax, the taxpayer merely exercised a legal right. The court said that, "if a device to avoid taxation is carried out by means of legal forms, it is subject to no legal censure." An example of saving taxes under an earlier stamp tax act of 1862 was given to illustrate the point. This earlier act imposed a duty of two cents upon a bank check when drawn for an amount of not less than \$20. The court said:

¹ 84 U. S. (17 Wall.) 496, 21 L. Ed. 728 (873).

"A careful individual, having the amount of \$20 to pay, pays the same by handing to his creditor two checks of \$10 each. He thus draws in payment of his debt two checks to the amount of \$20, and yet pays no stamp duty. This practice and this system he pursues habitually and persistently. While his operations deprive the government of the duties it might reasonably expect to receive, it is not perceived that the practice is open to the charge of fraud. He resorts to devices to avoid the payment of duties, but they are not illegal. He has the legal right to split up his evidence of payment and thus avoid tax."

4. Illustrative cases constituting tax avoidance— Conveyance in trust in lieu of will

Construing a case of the conveyance of property in trust and the possible avoidance thereby of inheritance taxes, Mr. Justice Holmes said: "*We do not speak of evasion, because, when the law draws a line, a case is on one side of it or the other, and if on the safe side it is legal, if a party has availed himself to the full of what the law permits. When an act is condemned as evasion, what is meant is that it is on the wrong side of the law as indicated by the policy, if not by the mere letter, of the law.*"² Avoidance of inheritance taxes was not successful in this case, Wisconsin taxing the property conveyed under the trust deed as "having been made in contemplation of death," and this holding was affirmed by the United States Supreme Court, but the statement by Mr. Justice Holmes, above quoted, shows that that attempt to save the tax did not constitute "evasion."

² *Bullen v. Wisconsin*, 240 U. S. 625, 36 Sup. Ct. 473, 60 L. Ed. 830 (1916).

5. Illustrative cases constituting tax avoidance— Change of residence—Selection of domicile

The changing of residence by an individual in order to avoid taxation has long been recognized as the exercise of a lawful right.³ The Supreme Judicial Court of Massachusetts said: "It is well settled that a man may change his habitancy or domicile from one town to another, merely because he wishes to diminish the amount of his taxes. If he really intends to change his residence, and does change it, the motive which prompts him to do so is not material."⁴ In commenting on this, Frederick N. Judson⁵ says: "The same principle obviously applies as that announced by the Supreme Court in cases where it was claimed that a man had changed his residence for the purpose of affecting the jurisdiction of the federal court. The sole question is whether the change was made in good faith, that is, was actually made." What good faith means is further illustrated by a definition quoted in Words and Phrases First and Second Series: "The phrase 'in good faith,' as it is used in the law, simply means honestly; without fraud, collusion, or deceit; really, actually, without pretense."⁶

6. Illustrative cases constituting tax avoidance— Change of status of organization

In the recent decision of *Weeks v. Sibley*⁷ the court discusses differences between tax avoidance and evasion. In this case the United States District Court for the Northern District of

³ Cooley, *Taxation* (3d Ed.) p. 767.

⁴ *Draper v. Hatfield*, 124 Mass. 53 (1878).

⁵ *Power of Taxation*, p. 478.

⁶ *Doctor v. Furch*, 91 Wis. 464, 65 N. W. 161 (1895).

⁷ 269 Fed. 155 (1920). See, also, *Sears, Trust Estates as Business Companies*, 2d Ed.

Texas holds that the transfer of a business to a trustee in order to avoid corporate taxation does not constitute an evasion. It appears that there was organized in 1918, an unincorporated joint stock company, or association, known as the Thrift Oil & Gas Company No. 4, for the purpose of developing an oil gas lease in Wichita county, Texas. The operations of the company were successful and the property became very valuable. On August 19, 1919, the company was, by vote of its shareholders, dissolved and its assets conveyed to a trustee under a trust agreement which gave him absolute control of the property. On September 3, 1919, the trustees sold the trust property for \$475,000 cash and \$593,750 to be paid from a certain percentage of the oil to be produced from the property. The trust agreement provided for the periodical distribution of the income from the trust. The question of how the transaction was to be handled for income tax purposes, was submitted to the Bureau of Internal Revenue in December, 1919, but no ruling was made until May 29, 1920. In due course the trustee made a fiduciary income tax return, showing the names and addresses of the beneficiaries and the amount which they had received from the transaction. Thereafter the Bureau of Internal Revenue ruled that the dissolution of the joint-stock association and the transfer of its property to the trustee was a device to escape taxation and ineffective. A beneficiary of the trust brought suit to restrain the trustee from making a return of taxes, except as a trustee, and the court sustained his action. In its opinion, the court points out that the Revenue Act provides for taxation of trust estates and that under the decision in *Crocker v. Malley*,⁸ trusts having many of the features of a corporation were, nevertheless, true trust estates and taxable as such, and says:

⁸ 249 U. S. 223, 39 Sup. Ct. 270, 63 L. Ed. 573, 2 A. L. R. 1601 (1919).

"It therefore appears that, if the purpose and the motive which prompted the dissolution of Thrift Oil & Gas Company No. 4 is not illegal, nor a fraud upon the revenue, the complainant's contention in this respect is correct, and no income accrued to Thrift Oil & Gas Company No. 4 by virtue of the transaction.

"It is insisted in the opinion of the solicitor for the Bureau of Internal Revenue that this change is a sham and a subterfuge, and is ineffective. This same opinion admits the right of an individual or corporation to regulate or change its business, with a view of reducing or avoiding taxation in the future, but in contradiction with this admission holds that the parties involved in this transaction could not do so. Supporting this view there are several cited cases, most of them by state courts. The case of *Pollard v. Bank*, 47 Kan. 406, 28 Pac. 202, cited by the solicitor, is directly opposed to his contention. The basis of the decision in the case of *Ransom v. City of Burlington*, 111 Iowa, 77, 82 N. W. 427, is not that an owner of property may not transfer his property or any part thereof for the purpose of avoiding any sort of tax, but the case holds that the purported transfer in the case of a strip from the front of a city lot, made for the purpose of avoiding a paving assessment, did not in fact pass title, and for that reason the property was subject to taxation in the hands of the purported transferor. The same case held: 'While one may lawfully dispose of his property to escape taxation, even taxation of a general character, the law will not uphold any mere manipulation under the guise of disposition, the only effect of which is to defeat a tax.'

"Other cases are cited involving the purchase of tax-exempt government securities at the beginning of a taxable year, and the conversion of a cash deposit in a bank into green backs

at a similar time, the holding of such tax-exempt property for a few days, and the immediate reconversion of same into taxable property for the purpose of escaping the burden of state taxation; the theory of those carrying on these manipulations being that, when they could strictly say that on the day tax liability was fixed they had no such taxable property, they could then immediately reconvert into property subject to taxation, and thus enjoy the benefits of the property subject to tax, and escape the burden of the tax.

"These cases are easily distinguished from the case at bar. There is nothing in the record in this case remotely indicating that the dissolution of the Thrift Oil & Gas Company No. 4 was not permanent, and that the shareholders by said dissolution did not permanently and finally abandon and relinquish all of the benefits which might thereafter have arisen on account of their organization as an association. To bring the character of cases above cited in line with the instant case, it would have to be held in the bond and currency cases that, if the individual making the change had continued to hold the tax-exempt property, he would nevertheless, on account of his intention of escaping taxation, be liable therefor, and thus we would have the strange spectacle of constitutional provision overridden, because a citizen intended to avail himself of all of the advantages guaranteed to him by the Constitution.

"Bearing in mind the rule of construction which the Supreme Court announced in the case of *Gould v. Gould*, 245 U. S. 151, 38 Sup. Ct. 53, 62 L. Ed. 211, and numerous other cases, to the effect that the provisions of the taxing statutes are not to be extended by implication beyond the clear import of the language used, and that they are to be construed most strongly against the government and in favor of the taxpayer, it is the opinion of this court that the right to change the status

of an organization, or to dissolve an organization in any legal manner, is not made ineffectual because the motive impelling the change is to reduce or avoid taxation in the future. The right so to do is an incidental right, inseparably connected with an individual's right to own and control his property. It is practically identical with the sale by a citizen of tax-burdened securities, and the investment of the proceeds thereof in tax-exempt ones, for the purpose of reducing or avoiding taxation. It is not unnatural that any thoughtful business man take such steps. It is altogether different from tax dodging, the hiding of taxable property, or the doing of some unlawful or illegal thing in order to avoid taxation."

7. Illustrative cases constituting tax avoidance— Incorporation under laws of a foreign state

Obtaining a corporate charter from a state other than that of the residence of the founders of the business, or foreign to the state where the principal activities of the business are to be carried on, because of some taxable advantage in organization and subsequent franchise taxes, because of convenience, or because of other advantages of the foreign law, has become a general and well-established practice. "Indeed," says the Supreme Court of North Carolina,⁹ "the practice, whether good or evil, of corporations taking out charters in one state to do business solely in others is too general, and has been too long recognized, to be now questioned. It is only necessary that such nonresident corporations shall comply with the requirements of the statute of the state, or states, other than that of its origin, as to the conditions precedent to doing busi-

⁹ *Troy & North Carolina Gold Min. Co. v. Snow Lumber Co.*, 173 N. C. 593, 92 S. E. 494, L. R. A. 1917E, 892 (1917).

ness in such states." A Pennsylvania court¹⁰ points out that because a charter "can be obtained easier and with less expense" in Delaware than in Pennsylvania constitutes no legal wrong.

Cases from other states ¹¹ have considered the question, and,

¹⁰ *Philadelphia & Gulf Steamship Co. v. Soeffing*, 59 Pa. Super. Ct. 429 (1915).

¹¹ *Arkansas*—*Boyington v. Van Etten*, 62 Ark. 63, 35 S. W. 622 (1896), holding that when a foreign corporation is once regularly formed, and until it is dissolved according to the laws of the foreign state, its existence as a corporation cannot be called into question by the foreign state.

California—*Stabler v. El Dora Oil Co.*, 27 Cal. App. 516, 150 Pac. 643 (1915), indirectly recognizes validity of a foreign corporation organized by citizens of California to do business in California.

Florida—*Taylor v. Branhan*, 35 Fla. 297, 17 South. 552, 39 L. R. A. 362, 48 Am. St. Rep. 249 (1895), regards foreign incorporation as invalid, but lays emphasis on the fact that no effort was made to acquire corporate authority in Florida.

Kansas—*State v. Topeka Water Co.*, 61 Kan. 547, 60 Pac. 337 (1900), holds a foreign charter to be valid, where the corporation has the same powers in the state of incorporation as it seeks to exercise in Kansas.

Kentucky—*Cumberland Telegraph & Telephone Co. v. Louisville Home Telephone Co.*, 114 Ky. 892, 72 S. W. 4 (1903), holds that the validity of a corporation organized in Delaware to do business in Kentucky, because "the laws of Delaware are not so rigorous as the laws of Kentucky," cannot be collaterally attacked.

Massachusetts—*Montgomery v. Forbes*, 148 Mass. 249, 19 N. E. 342 (1889). In this case, it appears that one George E. Forbes, "for the purpose of limiting his personal responsibility and because the tax laws of New Hampshire were more favorable to corporations than the Massachusetts laws, went to Nashua, New Hampshire, to form a corporation for the manufacture of woolen goods; that he employed an attorney at law of Nashua to incorporate the company in a legal and proper manner, under the laws of that state, and subsequently paid him for his services and disbursements in the premises; that he went to Nashua again, and with the attorney and three other persons, selected and secured by the attorney, signed and executed

with the few exceptions explained in the notes below, have expressly sustained such action as constituting lawful avoid-

an agreement of association, which was dated May 6, 1885, and was duly recorded in the office of the Secretary of State of New Hampshire on May 12, 1885, and in the office of the clerk of the city of Nashua on May 13, 1885, and recited that the subscribers associated themselves for the purpose of forming a corporation, to be called the Forbes Woolen Mills, the amount of the capital stock to be \$20,000, divided into 400 shares of \$50 each; and that the object of the corporation was to manufacture and sell woolen and other goods, and the places of business were Nashua, in New Hampshire, and East Brookfield, in Massachusetts." Subsequently a suit was brought to recover for goods sold to the alleged corporation, and the Supreme Judicial Court of Massachusetts sustained judgment against Forbes individually, permitting the seller to treat a note from the corporation as void. The court said: "The apparent corporation was not a corporation. The statute of New Hampshire requires five associates, and the articles of agreement must be recorded in the town in which the principal business is to be carried on, and the place in which the business is to be carried on must be distinctly stated in the articles; otherwise, there is no corporation. The defendant's pretended associates were associates only in name; he alone was interested in the enterprise. The articles of agreement were recorded in Nashua, and stated that the business was to be carried on there; but it was not in fact carried on there, and was not intended to be. The defendant took all the shares of the capital stock, and paid in to himself as treasurer only 50 per cent. of the amount thereof. This is not a case where there has been a defective organization of a corporation which has a legal existence under a valid charter. Here there was no corporation. It was just the same as if the defendant had done nothing at all in the way of establishing a corporation, but had conducted his business under the name of the Forbes Woolen Mills, calling it a corporation. The business was his personal business which he transacted under that name."

Missouri—The statutes provide that "the Secretary of State shall not license any foreign corporation to do business in Missouri when it shall appear that such corporation was organized under the laws of a foreign state by citizens and residents of Missouri for the purpose of avoiding the laws of this state, as it would be a fraud upon the laws of both states and its pretended incorporators would be

ance as contrasted with evasion. The reasoning of the New

held as partners, and as such become liable for the debts of the alleged corporation." Section 3039, Rev. St. 1909. In spite of this provision the Supreme Court held, in *State ex rel. Brown Contracting & Building Co. v. Cook*, 181 Mo. 596, 80 S. W. 929 (1904), with relation to a New Jersey corporation organized by citizens of Missouri: "If in any particular case it is thought by those interested in the matter that a business can be done in our own state and by our own citizens with greater facility under the form of a foreign corporation than under that of a domestic one, there is no public policy which forbids its transactions under such form." To the same effect see *Boatmen's Bank v. Gillespie et al.*, 209 Mo. 217, 108 S. W. 74 (1908). Cases in Missouri to the contrary include facts disclosing fraud in the enterprise as a whole. *Journal Co. v. Nelson*, 133 Mo. App. 482, 113 S. W. 690 (1908); *Tribble v. Halbert*, 143 Mo. App. 524, 127 S. W. 618 (1910); *Davidson v. Hobson*, 59 Mo. App. 130 (1894); *Cleaton v. Emery*, 49 Mo. App. 345 (1892).

New Jersey—*Hill v. Beach*, 12 N. J. Eq. 31 (1858), a lower court decision against foreign incorporation. This case is distinguished or regarded as against the weight of authority in later cases in other states, cited in this note.

New York—*Demarest v. Flack*, 128 N. Y. 205, 28 N. E. 645, 13 L. R. A. 854 (1891), affirming (Com. Pl.) 11 N. Y. Supp. 83 (1890), quoted in the text above; also *Lancaster v. Amsterdam Improv. Co.*, 140 N. Y. 576, 35 N. E. 964, 24 L. R. A. 322 (1894); *U. S. Vinegar Co. v. Schlegel*, 143 N. Y. 537, 38 N. E. 729 (1894)—all clearly sustaining foreign incorporation in the sense discussed in this note.

North Carolina—*Troy & North Carolina Gold Min. Co. v. Snow Lumber Co.*, 173 N. C. 593, 92 S. E. 494, L. R. A. 1917E, 892 (1917) clearly sustains foreign incorporation in the sense discussed in this note.

Ohio—*Second Nat. Bank of Cincinnati v. Hall*, 35 Ohio St. 158 (1878), recognizes foreign incorporation in the sense discussed in this note.

Oklahoma—*Lynch v. Perryman*, 29 Okl. 615, 119 Pac. 229, Ann. Cas. 1913A, 1065 (1911), holds that parties who attempt to incorporate, but fail because the corporation could not be organized for its declared purpose, or because all its business was to be conducted in a foreign state, are generally held as partners.

Pennsylvania—*Philadelphia & Gulf Steamship Co. v. Soeffing*, 59

York Court of Appeals¹² is of particular interest. In upholding the validity of a New Jersey corporation organized by citizens of New York to do business in New York, the court held that whether this constituted evasion or not was a matter of law for the court, and not a question of fact for the jury. If it were a question of fact for juries, it might be differently decided at different times and places. "This," the court said, "would be intolerable. It must be a corporation as to all persons with whom it has business dealings, or to none. In other words, it must be a question of law, instead of fact. * * * It is difficult to see how the terms 'evasion' and 'fraud' can be properly applied to acts of our citizens whereby they obtain incorporation in another state. * * * If in any particular case it is thought by those interested in the matter that the business can be done in our own state and by our own citizens with greater facility under the form of a foreign corporation than under that of a domestic one, there is no public policy which forbids its transaction under such form. * * * The truth is foreign corporations are not properly to be regarded with suspicion, nor should unnecessary restraints be imposed upon their doing business in our midst. They car-

Pa. Super. Ct. 429 (1915), clearly sustains foreign incorporation in the sense discussed in this note.

Rhode Island—Oakdale Mfg. Co. v. Garst, 18 R. I. 484, 28 Atl. 973, 23 L. R. A. 639, 49 Am. St. Rep. 784 (1894), clearly sustains foreign incorporation in the sense discussed in this note.

Texas—Moxie Nerve Food Co. v. Baumbach (U. S. C. C. E. D. Texas) 32 Fed. 205 (1887), holds that it is no defense to an action brought by a corporation organized in Maine, when it is shown that its office is located and its elections are carried on in Maine, to allege that the incorporators were all residents of another state, and that it did no manufacturing in the state of incorporation.

¹² Demarest v. Flack, 128 N. Y. 205, 28 N. E. 645, 13 L. R. A. 854 (1891), affirming (Com. Pl.) 11 N. Y. Supp. 83 (1890).

ry no black flag, and the policy of all civilized nations is to grant them recognition in their courts. It seems to me that every reason which urges upon us the recognition of foreign corporations, organized with power to do business in our state and composed of citizens of the foreign state, is equally potent when the foreign corporation is composed of our own citizens. It has always been supposed that a state should at least deal as liberally with its own citizens as with those of foreign states. If, therefore, we permit foreign citizens to come within our limits in the form of a foreign corporation, organized with power to do business here and recognized by us, why should we not permit our own citizens to avail themselves of a like privilege? If we impose terms and conditions upon foreign corporations, as such, doing business here, those same terms and conditions still and equally apply to a foreign corporation when composed of our own citizens. Why should they not be placed at least upon an equality with the foreign citizen?"

From the opinions sustaining such foreign corporation, however, it is to be noted that emphasis is laid upon legal manner of incorporation in the foreign state,¹³ and the proper maintenance of a statutory office, holding of meetings in the foreign state, filing of reports, etc.¹⁴ These cases show the importance of employing efficient and responsible agencies as the representatives upon organization and for subsequent corporate maintenance.

¹³ *Demarest v. Flack*, 128 N. Y. 205, 28 N. E. 645, 13 L. R. A. 854 (1891); *Boyington v. Van Etten*, 62 Ark. 63, 35 S. W. 622 (1896).

¹⁴ *Moxie Nerve Food Co. v. Baumbach* (C. C.) 32 Fed. 205 (1887).

8. Illustrative cases constituting tax avoidance— Creation of indebtedness as an offset

The creation of indebtedness as a means of escaping or reducing personal property taxes has been sustained, in the absence of evidence that the debt was not just and enforceable. In a decision to this effect by the New York Court of Appeals,¹⁵ the person attempted to be taxed had borrowed \$25,000, the proceeds of which he used to purchase United States bonds which he pledged as collateral to the note. With reference to characterization of this transaction by the assessors as "a device to escape assessment and taxation," the court said: "We are referred to no statute which prohibits a property owner from choosing between the embarrassment of a debt and submission to a burden, justly indeed imposed on all, and which, if he escapes, must altogether fall upon his neighbors. The assessors therefore exceeded their necessary duty when, by inquisition, they so pressed the relator as to call from him a disavowal of that purpose and his innocence of intention to circumvent 'the tax laws.' The argument of the appellants is, in effect, to show that this was an ingenious falsehood. It touches, however, not the fact of an indebtedness, but the motive which led to its creation. The statute concerns itself only with the debt. It makes the 'taxable personal property' of an individual so much only of that species of his estate as remains 'after deducting the just debts owing by him.' In view of this provision, the assessors erred; for there is not a word of evidence to indicate that the debt of \$25,000 was not, in every legal sense, a just one, and enforceable against the relator in the same manner as other debts contracted by him. That the property purchased with its proceeds

¹⁵ *People v. Ryan*, 88 N. Y. 142, 42 Am. Rep. 238 (1882).

stands as security for its payment and is itself nontaxable cannot alter the result. This attribute of exemption was impressed upon it to promote its salability, and no doubt entered into and enhanced the price paid. Nor do we perceive how, by a purchase in the manner narrated in the return, the buyer evades our law of taxation. The law does not prohibit it, therefore does not apply, and in such a case there can be no evasion. *Smale v. Burr*, L. R. 8 C. P. 64, 4 Eng. Rep. 330. Whether the law shall be so extended as to prevent similar transactions is for the Legislature to determine." The law was amended as thus suggested by section 2 of chapter 202 of the Laws of 1892, which provided that "no deduction shall be made or allowed for or on account of any debt or on account of any debt or liability contracted or incurred in the purchase of nontaxable property or securities owned by him [the taxable inhabitant] or held for his benefit." Subsequent to this amendment a New York corporation claimed the right to deduct a debt of \$40,000, represented by two notes of \$20,000 each, proceeds of which had been used to purchase stock in another domestic corporation. This claim was sustained, against argument of evasion,¹⁶ on the ground that, although the corporation was liable for no tax on the stock it held in the other corporation, such stock was not "nontaxable" within the meaning of the amendment. The Appellate Division said: "The act of 1892 also forbids the deduction of any debt 'incurred for the purpose of evading taxation,' and the return states the belief of the respondents that this debt was so incurred as one of the reasons for their action. The facts alleged by them in support of this belief seem to

¹⁶ *People ex rel. Keppler v. Barker*, 22 App. Div. 120, 47 N. Y. Supp. 958 (1897).

us quite insufficient. In fact, upon our construction of the act, there could be no such evasion. The statute did not mean to refuse the deduction of a debt incurred for taxable property or securities, and hence deductible, simply because the party incurring the debt thought it was incurred for nontaxable property, and hence nondeductible."

9. Illustrative cases constituting tax avoidance— The making of gifts

The fact that a bona fide gift resulted in a saving of taxes by the donor has been held to constitute no legal wrong. The situation in this regard is illustrated and summarized in a decision by the Court of Appeals of Kentucky,¹⁷ which says: "We are of the opinion that this gift inter vivos is fully proven to have been made; and public record made thereof, and that, whatever might have been the motive prompting Jerry O'Callaghan so to do, the title passed absolutely to Eugene O'Callaghan, except, of course, as to then-existing creditors, of whom there were none. Jerry O'Callaghan had a perfect right, if he so desired, to give his property to whomsoever he pleased; and, if this gift removed the situs of the property from the taxing jurisdiction of appellee, there is no remedy. While taxes are certain, it has never been held, so far as we are advised, that taxes to be due in the future, and for years in the future, are a debt, so that the sovereign or taxing power could have a gift declared void as to a then-existing creditor. It is always held that, if the property exists, it will be taxable somewhere, and the vigilant tax officials will always assess the property that has a situs in their jurisdiction, and that no property will escape. The taxes are due from the owner of

¹⁷ O'Callaghan's Ex'rs v. City of Owensboro, 111 Ky. 765, 64 S. W. 619, 23 Ky. Law Rep. 1099 (1901).

the property, and are always assessable to the owner or title holder. In the case here it is clearly and conclusively shown that, as between these two parties, the title and ownership of this property passed absolutely by the gift, and is irrevocable by Jerry O'Callaghan, even if he desired, which he disclaimed any intention or desire to do. The property being that of Eugene O'Callaghan, it was not taxable in Owensboro, and the deposit in bank should have been adjudged to appellants, as his personal representatives. It is not clear that this gift was for the purpose of evading taxes in the city. The facts appear that Eugene O'Callaghan was the only relative of Jerry, and was eight years the junior, so it might reasonably be expected that Eugene would survive, and inherit the whole property from his brother, so that the gift from the old gentleman may be said to be the ordinary and natural thing that might have been expected."

10. Illustrative cases constituting tax evasion—Investment in nontaxable securities shortly before tax day and disposal of same shortly thereafter

One of the earliest cases of this character is a decision by the Supreme Court of Mississippi.¹⁸ Thirty-two thousand dollars of the capital of a banking corporation, used in its daily business, was converted a few days before the date of assessment into nontaxable bonds of the federal government for the express purpose of evading taxation, and with the fixed intention of reconverting it as soon as the day of assessment was passed. This investment was held to be colorable and fraudulent, and the capital thus used to be taxable. The court made

¹⁸ *Holly Springs Savings & Insurance Co. v. Board of Sup'rs of Marshall County*, 52 Miss. 281, 24 Am. Rep. 668 (1876).

this appropriate explanation: "We must not be understood as holding that government bonds are taxable merely because the motive for their purchase was to escape taxation. Neither do we intimate that they must be held for any particular time, or be bought with any intention of holding them for any period whatever. They may be bought solely because of their nontaxable character, and disposed of at the very earliest practicable moment, and such purchase will not subject them to taxation. We confine ourselves to the point at issue, and limit our decision to the facts before us; and we declare that when the capital of a banking institution, used throughout the year in the conduct of its business, is converted for a few days into government securities, for the express purpose of defeating the imposition of any or all taxes, such investment is colorable and fraudulent, and its capital remains taxable to the same extent and in the same manner as if such conversion had never taken place. In such case the tenure by which they are held, being a fraud and a cheat, will be disregarded, and the bankers will be considered as still the owners of that property which, for the moment, they have attempted to hide beneath the protection of the general government."

In a Nebraska case¹⁹ Jones bought government bonds on February 29, 1876, amounting with premium to \$41,650. He sold them on March 7 of the same year. March 1st was the day as of which taxables were determined. The Supreme Court of Nebraska held Jones to be taxable with respect to this investment in bonds, in spite of their exemption, because their purchase was a mere device to escape taxation. The court said in part: "It is conceded that United States bonds are exempt from taxation, and that money invested in good faith in such

¹⁹ Jones v. Seward County, 10 Neb. 154, 4 N. W. 946 (1880).

securities cannot be taxed. The court below found that the plaintiff did not purchase the bonds in question in good faith. Is this finding sustained by the evidence? We think it is. The plaintiff does not claim that the money was intended by him to remain invested in bonds. On the contrary, it appears from his own testimony that the investment was merely temporary.

* * * Where a change is thus made for the sole purpose of defrauding the government of its just dues, and to enable a party to escape the payment of his just proportion of the taxes imposed by law, he cannot shelter himself behind such temporary change in the character of his funds to escape taxation."

In a frequently cited case,²⁰ which went to the United States Supreme Court, it appears that David H. Mitchell kept a banking account in Leavenworth, Kansas. On February 28, 1870, he had a balance to his credit of \$19,350 and subject to his check. On that day he gave his check for this balance payable to himself in United States notes. These notes were paid to him. He immediately inclosed them in a sealed package and placed them in a vault. On March 3d he withdrew his package and redeposited the notes in his account. Personal property in Kansas, which includes money on deposit, is listed for taxation, as of March 1st in each year. Mitchell did not list any money on deposit. The taxing officers, on discovering the facts, added \$9,000 to his assessment. He filed a bill in equity to restrain collection of the tax. The courts of Kansas refused to help him, and the United States Supreme Court upheld the Kansas courts, saying: "United States notes are exempt from taxation by or under state or municipal authority; but a court of equity will not knowingly use its ex-

²⁰ *Mitchell v. Leavenworth County*, 91 U. S. 206, 23 L. Ed. 302 (1875).

traordinary powers to promote any such scheme as this plaintiff devised to escape his proportionate share of the burden of taxation. His remedy, if he has any, is in a court of law."

An evasion case ²¹ in Indiana was an action to recover a penalty under section 6339, Rev. St. 1881, which provided that, "if any person or corporation shall * * * temporarily convert any part of his personal property into property not taxable, for the fraudulent purpose of preventing such property from being listed, and of evading the payment of taxes thereon, he or it shall be liable to a penalty of not less than fifty dollars nor more than five thousand dollars," etc. Such an action was held to be properly brought against one who, on March 31, 1888, drew his check for \$24,025 and took payment in greenbacks, which he inclosed in a package for safekeeping until April 11, 1888, when he redeposited the money in the bank. This was done as a basis for not listing that amount on tax day, namely, April 1st.

In an Illinois case ²² a bank, in the latter part of March, 1901, purchased \$26,562 worth of United States 2 per cent. bonds and sold them during the first part of April following. On May 4, 1901, the bank furnished a schedule of property to the assessor, showing ownership of the bonds on April 1st. The board of review sent for the president of the bank and asked him this question: "Did you buy government bonds late in March, 1901, and sell them early in April, 1901, for the express purpose of evading the tax on money invested in said bonds?" which question he declined to answer, but did state, "I did it to save taxes, because they were not subject to taxa-

²¹ *Durham v. State ex rel. Anderson*, Pros. Atty., 6 Ind. App. 23, 32 N. E. 104 (1892).

²² *In re People's Bank of Vermont*, Ill., 203 Ill. 300, 67 N. E. 777 (1903).

tion, as I thought." The bonds were never actually received by the bank, but were on special deposit in a trust company in Chicago. The board of review found as a matter of fact that the purchase of the bonds was not a transaction of the business of banking, but was for the purpose of avoiding taxation, and accordingly assessed the bank with the amount of money invested in the bonds. The decision was approved by the State Supreme Court, which in part said: "This was a banking institution, and if it was the mere question of the safe-keeping of these bonds, and the transaction was an investment for the benefit of profits to the banking concern, there could be no good reason for leaving them upon special deposit in some bank distant from the situs of taxation. We may not be warranted, from the evidence, in saying that such was the fact; but it may be easily seen that the bonds in question, lying in the hands of the convenient depositary, may have subserved the same purpose for many like banking institutions, and thus repeatedly defrauded the State and municipalities of their proper taxes. While such institutions have the right to invest in such securities, and courts are bound to recognize that right, when it becomes a question between them and the state, and that question relates to the purpose of the purchase, and the facts tend to show that such purpose was the evasion of taxation, then the courts may look upon such transaction as none other than fraudulent in law, and of such character that the beneficiaries cannot be allowed, under the cloak of an apparent legitimate transaction, to thus avoid their duty and responsibility to the state."

11. Illustrative cases constituting tax evasion— Pretended removal of property out of taxing district

A line of evasion cases, in addition to those involving conversion into exempt property, are those constituting colorable removal of property out of the taxing district. In an Oregon case ²³ a taxpayer borrowed a large sum of money of a person residing outside the county and deposited notes and mortgages with him as security. This was held under the circumstances to be a transfer to defraud the revenue. Evidence to support this conclusion was that: (1) The security was greatly out of proportion to the amount of money borrowed. (2) The taxpayer after the deposit continued to loan money in large sums, showing that he could have paid the note, and that it was not necessary for him to have parted with the large amount of collateral. (3) He continued actual control over the collateral.

In an Ohio decision ²⁴ it was held that the owner of promissory notes, etc., who gave possession and title in trust to a person outside of Ohio, retaining control in himself, is not entitled to an injunction to prevent the auditor from placing the notes, etc., on a "tax duplicate" for taxation. The trustee took possession of the notes, but paid no taxes on them. The real owner of the notes, etc., managed the loans himself and disregarded the trustee. The Supreme Court of Ohio held that an apparent and not a real change of ownership had been effected, and said: "Nobody seems to doubt that the real purpose of Foster was to prevent this property from being taxed in the village. The claim is that he had the right to do this. It is not doubted that the owner of property may change its

²³ *Poppleton v. Yamhill County*, 8 Or. 337 (1880).

²⁴ *Sisler v. Foster*, 72 Ohio St. 437, 74 N. E. 639 (1905).

form, as from the stock of a foreign to that of a domestic corporation, or from personal to real, to avoid taxation, or that he may, provided the transaction is not a mere shift, change from money which is taxable to United States securities, which are not, or he may change his residence for the purpose of avoiding taxation. In any such case the motive does not concern any one else, or the public. But we have no such case here. When a party seeks affirmative relief in equity, his motives may always be inquired into, for the purpose of determining whether his case is entitled to favorable consideration."

In a New York case ²⁵ a resident owner of bonds and mortgages assigned them without consideration to a nonresident daughter on March 15th, but was taxable with respect to them as their true owner on July 1st following. The courts look through the pretense to discover the true situation in these cases.

An example of attempt to place a business outside of a taxing district, held to constitute an evasion, is the recent "pawnbroker's case" ²⁶ before the United States Supreme Court. A Washington pawnbroker, anticipating the enactment of a license tax in the District of Columbia, retained his Washington office as a storehouse for pledges, but moved his headquarters to a place in Virginia at the end of a bridge leading to Washington. Prospective borrowers, calling at the Washington office, were offered free automobile service to the Virginia office, or dime messenger service. Negotiations for the loan were made in the Virginia office, but the pledges were stored in the Washington office. Upon payment of the loans the borrower received a redemption certificate, which he pre-

²⁵ *People v. Sawyer* (Sup.) 27 N. Y. Supp. 202 (1893).

²⁶ *Horning v. District of Columbia*, 254 U. S. 135, 41 Sup. Ct. 53, 65 L. Ed. 185 (1920), affirming 48 App. D. C. 380 (1919).

sented at the Washington office and received his property back. This was ineffectual as a means for escaping the Washington license tax, because pawnbroking business was still conducted there; the storing of pledges in Washington being as much a part thereof as the making of loans.

12. Illustrative cases constituting tax evasion—Attempts to avoid assessment for improvements by conveyance of small strips of land

In an Iowa case²⁷ a conveyance of a fifteen-foot strip to avoid a paving assessment was held to be an artifice, and did not pass title, nor exempt the adjoining strip, from which it was attempted to be made, from taxation. The same principle is illustrated by a Missouri decision,²⁸ which characterized a sale of a strip off the front of a city lot, for the purpose of saving the rest of the lot from the burdens of a special tax for street improvement, as "colorable" and a "mere sham," and therefore ineffective and void.

13. Methods of avoidance or tax reduction in general

The avoidance of taxes in a legal and effective way, as distinguished from evasion, as discussed in the foregoing sections, will be seen to consist in *not doing or owning the thing that is taxed, but in doing or owning, something not taxed, or taxed under more favorable conditions*. It has to do entirely with taxes in the future. In no case of lawful tax avoidance do we keep the substance of the thing taxed and erect a shadow or pretense of the thing not taxed; that is evasion. We are here concerned with the bona fide selection of methods

²⁷ *Ransom v. City of Burlington*, 111 Iowa, 77, 82 N. W. 427 (1900).

²⁸ *Stifel v. Brown*, 24 Mo. App. 102 (1887).

of business organization, domicile, places of doing business, ways of doing business, selection of investments, and the disposition of property, with a view to accepting the consequences of our choice in every way intended by law and by good conscience. Summarizing from the discussion in sections 2, 3, and 4 above, it is clear that:

- (1) Tax "avoidance" is distinguishable from tax "evasion."
- (2) Courts recognize that it is "not unnatural that any thoughtful business man take such steps" as shall result in exemption from or saving from taxation.
- (3) For such steps to be "effective" and legally innocent they must be taken in "good faith."
- (4) Good faith in this connection means that they must be taken openly and actually.

To translate these principles into practice means that the taxpayer must (1) keep reliably informed of the various methods of transacting business and their relative taxability. (2) He must act with sufficient promptness to avoid accusation that any change he makes is not "actual," and in order that such advantage as is obtained may last as long as possible before the next legislative change in subjects or persons taxed. (3) He must show his "good faith" by acting openly and without pretense, and for the same reason the transaction must be "actual" in every respect, as distinguished from a pretended or a mere bookkeeping transaction.

14. Plan of treatment of subject in this book

The arrangement of the contents of this book is intended to supply answers in the following order of inquiry:

- (1) What form of organization is subject to the least burden of taxation?
- (2) How are different forms of organization taxed?

(3) In what state may incorporation be effected to the best taxable advantage?

(4) How will the enterprise be taxed in foreign states?

(5) What methods may be adopted to keep down corporate taxes?

(6) What methods may be adopted to keep down personal taxes?

(7) What methods may be adopted to keep down the federal estate tax and state inheritance taxes?

For the exact situation in a given state, the reader will refer to the synopsis of the tax laws of that state in Part II.

CHAPTER II

SELECTION OF FORM OF BUSINESS ORGANIZATION

CORPORATIONS—TRUSTS—PARTNERSHIPS

15. Factors of selection in general

Many considerations besides taxation enter into the selection of a form of business organization. In many instances these considerations will far outweigh the extra burden of tax imposed, however great. The advantages of incorporation, trust, or partnership with respect to general or particular enterprises are discussed at length in works exclusively devoted to these subjects, some of which are cited in the note.¹ It is expected that the reader will supplement the viewpoint taken herein with advice from these or other sources, before concluding his choice of a form of organization. Merely as a means of reviewing the more prominent advantages and

¹ *Corporations*.—See, especially, records of the Corporation Trust Company; Machen, *Modern Law of Corporations*; Cook on *Corporations*; Fletcher, *Cyclopedia of Corporations*; Conyngton, *Corporate Organization and Management*; Frost, *Incorporation and Organization*; Spelling, *Corporate Management and By-Laws*; Clark on *Corporations* (Hornbook Series); *Corporation Journal*; Francis Lynde Stetson, on "The Government and the Corporation," in the *Atlantic Monthly* for July, 1912.

Business Trusts.—Sears' *Trust Estates as Business Companies* (2d Ed.); Thompson, *Business Trusts as Substitutes for Business Corporations*; Wrightington, *Unincorporated Associations*; Henry J. Aaron, "The Massachusetts Trust as Distinguished from Partnership," 12 *Ill. Law Rev.* 482; H. L. Wilgus, "Corporations and Express Trusts," 13 *Mich. Law Rev.* 71, 205; S. R. Wrightington, "Voluntary Associations in Massachusetts," 21 *Yale Law Rev.* 311;

disadvantages, and of refreshing the memory on these subjects, features of these methods of organization other than taxation are set forth in the next three sections of this book.

16. Features of incorporation other than taxation

(1) *Duration*, for period of years or unlimited, according to charter.

(2) *Individual liability of shareholders*, automatically limited by statute to payment for shares.

(3) *Transferability of shares* by stockholders, and succession thereto upon death, without interruption of the enterprise.

(4) *Convenience and safety in management*, through election of board of directors, subject to re-election or not, at the choice of the stockholders. Selection by directors of officers of limited authority.

(5) *Control*, through ownership of majority of stock.

(6) *Assistance to credit of enterprise*, through right to issue bonds of fixed duration, secured in part by uninterrupted legal life of the enterprise. Usual inability to plead usury as a defense enables securing of loans not available to other forms of business.

(7) *Convenience to shareholders in using shares as collateral security*.

(8) *Reports* to states other than for taxation are numerous and often troublesome.

Robert S. Stevens, "Limited Liability in Business Trusts," 7 Cornell Law Quarterly, 116.

Trusts in General.—Perry on Trusts and Trustees; Bogert on Trusts (Hornbook Series); Loring's Handbook for Trustees and Beneficiaries; Underhill on Trusts and Trustees.

Partnerships.—Mechem, Elements of Partnership; Shumaker on Partnership; Rowley on Partnership, including forms.

(9) *Qualifying* under laws of foreign states and countries often difficult and annoying.

17. Features of business trusts (in form taxable as a true trust estate and not as an association) other than taxation

(1) *Duration*, limited to lives in being at time of creation of trust. In many states the trust may last 21 years after the death of the last survivor of named persons; in others it is limited to the life of the last survivor of two persons (or trusts of certain kinds may last indefinitely according to certain authorities—see discussion and cases cited in chapter XIII, *Sears, Trust Estates as Business Companies*).

(2) *Individual liability of beneficiaries* is limited to payment of their subscriptions to the corpus of the trust. Trustees are individually liable on contracts, unless terms of the trust or terms of independent contract limit the other contracting party to look solely to trust funds. Trustees are liable in tort (damage cases), but may take out insurance and indemnify themselves from trust funds for money paid out for benefit of the trust. These limitations of liability are well settled in some states (in Oklahoma the statute limits liability); in others litigation will be necessary before this form of organization can be regarded as on a basis equal in certainty to the corporate form.

(3) *Transferability of shares*, or fractional beneficial interest, and succession thereto on death of beneficiary, without interruption to continuance of the trust, when so provided in trust declaration or agreement.

(4) *Convenience and safety in management*, by trustees, who can act with or without meetings, with delegation of ministerial duties to officers and agents, all in accordance with terms

of trust instrument framed for the particular needs of the business. Trustees appoint their own successors and are only removable for legal cause.

(5) *Control is in the trustees*, in the majority thereof, or in such number as the trust instrument may provide. Beneficiaries have no control or voice in the management of the enterprise. Their rights are limited to receipt of income and to proportionate share of corpus on termination of the trust, to examination of trust assets and books, to accountings, and to removal of trustees by court proceedings.

(6) *Assistance to credit of the enterprise*, through right to issue bonds secured by trust assets in states where trusts will not be terminated by lives alone. The safer view is that the issue should mature within 21 years. Possible right to plead usury as a defense may interfere with certain loans, in which event a subsidiary corporation may be employed as the borrower.

(7) *Convenience to beneficiaries*, in using shares as collateral security.

(8) *Powers of trustees* to conduct business not permitted corporations in some jurisdictions.

(9) *Right to make distributions* from corpus.

(10) *Reports to states, other than for taxation*, are not required.

(11) *Qualifying* under laws of foreign states and countries is not required.

18. Features of partnerships other than taxation

(1) *Duration* is limited, in absence of special provisions in partnership agreement, to lives of partners. On death of any partner, partnership must be wound up.

(2) *Individual liability of each partner* for all the debts of the partnership to the full extent of his private fortune, except

in the case of statutory limited partnerships in certain states, where special partners only are limited to fixed amount; the general partners in such limited partnerships having all the liabilities of partners in common-law partnerships.

(3) *Transferability of partners' interest* is limited to consent by all the other partners; in fact, any change of membership means a new partnership.

(4) *Management, so far as third parties is concerned*, is in all the partners; each being liable for what the other does.

(5) *Control* is in all the partners.

(6) *Credit* cannot be secured on any basis of permanence to the enterprise. It is not suited to securing of loans for fixed periods, like bonds. Partnership credit, however, is for many purposes enhanced by personal liability and responsibility of the partners.

(7) *Using partnership interest as collateral* is hazardous, and not suited to ordinary commercial practice.

(8) *Reports* to states other than for taxation are not required.

(9) *Qualifying under laws of foreign states* and countries is not required, but registration, particularly when firm uses a fictitious name, is becoming a general statutory requirement.

19. Relative taxability in general

The question of relative taxability of the form of organization, to be completely answered, must include consideration of (1) taxation of the enterprise as an entity; and (2) taxation of the investors therein. In the case of a corporation, the corporation itself is the entity; the investors are its stockholders and bondholders. The similitude to an entity in a partnership is the firm; its partners are investors therein. In a trust the trust estate may for the purpose of this discussion be regarded

as the entity, legal title to which is vested in the trustees; the beneficiaries or holders of the equitable title being either the recipients of the bounty of the creator of the trust, or investors therein, according to the nature of the trust. Both partnerships and trusts may have creditor investors, by way of bondholders or otherwise. Partnerships and trusts are taxed very much alike, and generally the same as individuals.

20. Illustrative comparison of relative taxability —Instance where corporate form results in the least tax

Let us assume an enterprise, with initial capital of \$1,000,000, engaged in the manufacturing business in Connecticut, owned equally by three individuals, in operation for one year, with a gross income of \$1,000,000 and a net profit of \$300,000, all of which is retained in the business for future safety or expansion, none being distributed to the owners.

As a corporation it would pay an organization tax to Connecticut of \$1 per \$1,000 of authorized capital, plus filing fees of about \$20; total, \$1,020. To the federal government it would pay stamp taxes at 5 cents per \$100 of par value of its capital stock, or \$500. Its federal capital stock tax would be (figuring the fair average value of its capital stock to be \$1,200,000) \$1,195. Its federal income tax, at 12½ per cent. on net income, would be \$37,500. Its Connecticut income tax would be 2 per cent. of its net income, or \$6,000. Total taxes, exclusive of general property tax levied by town where plant is located, would be \$46,215. There would be no income tax on the stockholders, since they received no dividends.

Organized as a partnership or as a trust estate (in form taxable as a true trust and not as an association), taxes imposed would have been confined to federal income tax and to the

Connecticut tax on unincorporated manufacturing companies. Under the federal income tax each partner or each beneficiary would have been liable to taxation at normal and surtax rates on their respective distributive shares, in spite of their non-receipt thereof. Allowing an exemption of \$2,000, the amount to each would be \$30,140, or a total federal income tax of \$90,420. At \$1 per \$1,000 of gross income there would be still unincorporated manufacturing company tax of \$1,000. Total taxes, exclusive of general property tax, would be \$91,420, as against \$46,215 as a corporation, showing an *immediate* saving in favor of the corporate form of \$45,205. This is on the assumption that the taxpayer has no other income. Assuming other income, the advantage of the corporate form, under the circumstances, would be still greater.

21. Relative taxability—Instance where the corporate form results in the largest total tax

As a corporation, assuming distribution of the entire \$300,000 net profit from the above enterprise, there would be added, if in the corporate form, surtaxes to the individual stockholders of \$22,460 each, or a total of \$67,380, bringing the total taxes due to the corporate form to \$113,595.

Organized as a partnership or trust estate, there would be no taxes in addition to those noted, because of the distribution; the entire amount of taxes being the same as before, namely, \$91,420, as against \$113,595, showing an *ultimate* saving in favor of the partnership or trust of \$22,175.

22. Elements which affect relative taxability

The above example represents but one instance, out of innumerable possible combinations of circumstances. What form of organization will be exposed to the larger tax depends on a great many different things. Plans of financing, amounts

of capital, probable period of promotion preceding income, numbers of participants, places where business is to be conducted, distribution or accumulation of earnings, kind of business, and other factors enter the problem. Different stages in the development of an enterprise may call for different forms of organization. Combination of business trust and subsidiary corporation or corporations is sometimes advantageous. Foresight in this respect may often result in substantial saving of taxes. The basic consideration is the purpose and plan of the enterprise as a whole, and what its immediate and ultimate scope will be. With this in mind, the suggestions in subsequent chapters of this book can be weighed and considered, supplemented by calculations based upon the data in Part II applicable to the particular case.

CHAPTER III

OUTLINE OF CORPORATE TAXES AND WAYS OF MINIMIZING CORPORATE TAXES

23. Corporate taxes in general

The taxation of corporations is thus summarized in a recent decision by the Supreme Court of Michigan:¹ "Taxes on corporations are as varied as the fertility of legislative minds can conceive." Corporations, in addition to being taxed on their real and personal property, the same as individuals, and being subject to federal income tax and to state income taxes in some states, are also subject to various franchise taxes. "Taxes upon the franchise of corporations fall into five different classes: (1) Organization taxes, or fees exacted of domestic corporations for the grant of corporate powers; (2) excises levied periodically, usually annually, upon the franchise of domestic corporations; (3) excises charged foreign corporations for the privilege of entering and doing business within the state; (4) excises upon special privileges enjoyed by particular corporations; (5) ad valorem taxes on franchises as property. These taxes are not necessarily alternative, but may be concurrent. Thus, a property tax may be imposed on the right to incorporate in the first instance, and annually thereafter as the right to continue corporate existence."² The reason that it has been possible to place upon corporations these taxes which are not imposed upon individuals, is "the differences existing

¹ *Union Steam Pump Sales Co. v. Deland, Secretary of State*, 216 Mich. 261, 185 N. W. 353 (1921).

² 26 R. C. L., p. 165.

between the constitutional rights of individuals and corporations." ³

The subject of corporate taxation is further complicated because of the several parties interested; the corporation itself, its stockholders, and its bondholders. Then there are the several kinds of corporations to be considered, each from different angles. Reviewing this phase of the problem, the United States Commissioner of Corporations ⁴ said:

"Probably the earliest important class of business corporations is what may be termed financial companies, engaging in banking and insurance business. Next in point of time come transportation and other public service companies. Finally, the corporate form has extended to general industrial and commercial enterprises, commonly referred to as 'general business corporations.'

"The financial corporations, partly by reason of their early development and consequent opportunity for evolving a proper system of taxation, and partly by reason of their close supervision by the state, have settled down under a somewhat uniform system of taxation, which collects the revenue from the corporation itself, based upon information required to be supplied in the form of public reports relating to deposits, assets, or premiums received. * * *

"A highly important class of corporations from the standpoint of public revenue is that known as public service companies, embracing railroads, street railroads, and telephone, telegraph, gas, electric light and power, express, car, and water companies. They come next in point of time after those class-

³ Report of Commissioner of Corporations to the President of the United States, 1915, p. xvii.

⁴ Report on Taxation of Corporations, 1909, p. 13.

ed as financial companies, but there has been developed as yet no uniform system of taxing them. * * *

"Taxation of corporations of a general nature, such as manufacturing and mercantile companies, has received less development than taxation of any other corporations, and, in fact, in many of the states these corporations have been left entirely to the general property tax.⁵ In considering this class of corporations there is always present the tendency to sacrifice revenue to the policy of encouraging industry and trade.

"The three general classes above referred to are not distinguishable by any clear lines of demarcation. The tendency toward the subdivision of corporations into classes for the purpose of taxation is still in progress, and is one of the noteworthy features attendant upon the working out of the subject."

24. Outline of important ways of minimizing corporate taxes

Much of the matter in Chapter VI of this book, especially investment in exempt securities, taking out insurance, and handling imports in original packages, applies equally to corporations and to individuals. These do not, however, concern strictly corporate taxes; that is to say, taxes which are imposed upon the corporate franchise in any of the five ways described in the foregoing section.

Some of the important things which may be done to minimize or keep down taxes, peculiarly applicable to corporations, and which also affect taxability of stockholders as such, and which form the subject of this chapter, are: (1) Framing the corporate structure so as to avoid unnecessary or premature

⁵ This condition in 1909 does not appear to be so generally the case in 1922.—J. H. S.

issue and transfer of securities, overcapitalization, and unnecessary complications; (2) selecting favorable state for incorporation; (3) locating agency for transfer of stock and conducting management within favorable taxing jurisdiction; (4) confining operations in foreign states to interstate commerce; (5) using subsidiary qualifying or domestic corporations of small capitalization; (6) pursuing a policy of dividend distribution favorable to stockholders from the point of view of their taxability.

25. Framing the corporate structure with a view to minimizing taxes

The federal excess profits tax law placed a premium on inflation of capitalization as a means of bringing the "invested capital" up to a high point. The repeal of that law, beginning with January 1, 1922, appears to do away with any taxing advantage from inflation. Other forms of corporate taxes as a whole place the advantage the other way, namely, in favor of keeping the authorized and issued capital down to a point within the actual needs of the business. Merely having authorized capital, which is not issued or subscribed for, is not always serious from a taxation point of view, inasmuch as it usually increases merely the state organization tax, but, having issued capital stock in amounts not required or largely in excess of the price sold for the benefit of the corporation, may result in excessive amounts of stamp taxes, and domestic and foreign franchise taxes, and sometimes merely having a large authorized, but not issued, capital stock will increase foreign franchise taxes. For example, Ohio, relying on the decision of its Supreme Court in *Bedford Coal By-Products Co. v. Fulton*, 98 Ohio St. 350, 121 N. E. 697, imposes an annual franchise tax on the authorized capital of a foreign corpora-

tion, irrespective of the amount of issued stock, and some other states impose a like tax. Rather than have an unnecessarily large authorized or issued capital stock merely because it is anticipated that it may be difficult to get the stockholders to consent thereto in the manner provided by law, the alternative of a voting trust expressly authorizing the trustees in their discretion to vote for an increase should be considered.

The creation of unnecessary subsidiary and affiliated corporations should, whenever possible, be avoided. Although the federal and some state income tax laws treat these enterprises as an entirety, state corporate tax laws usually do not. Many such companies, on analysis, will be found to be far more expensive from a taxation point of view than their usefulness will justify.

The original issue stamp tax is applicable, according to a treasury ruling, either upon subscription or upon the actual issuance of the stock, whichever is first.⁶ Contracts for the future issuance of stock to promoters or to others, rather than immediate issuance thereof, will, therefore, not be effective as a means of avoiding the tax, unless they are so framed as not to amount to a subscription to the stock.

Precaution against unnecessary complications, including unnecessary transfers of stock, should be observed in reorganizations. Thus, transfers to stockholders' committees are taxable,⁷ and such transfers are not always necessary in order to effectuate a reorganization plan.

⁶ See Holmes, *Federal Taxes*, 1922, p. 1171, for comment on this ruling to the effect that the statute fixes the tax on the *issue* of stock and that above ruling is unwarranted.

⁷ *Corp. Trust Co. W. T. S.*, 1919, pars. 3598, 3599.

26. Selecting favorable state for incorporation

Varying tax laws sometimes dictate, and always influence, the choice of a state in which the corporation should be incorporated or should have its principal place of business. This usually leads to an initial comparison between the laws of the state where the principal parties in interest are located and those of so-called liberal charter granting states, such as Delaware, Maine, New Jersey, West Virginia, etc. The result of this comparison, where the proposed corporation is a large one, and where its operations extend into many states, is generally that a substantial saving in organization taxes and subsequent franchise taxes is secured by incorporating in some one of these favorable states. But where the capitalization is small, or all the business will be conducted in one state, it is found that incorporation in that state will be the most economical course, since admission to that state as a foreign corporation would add an extra expense. Sometimes the law of the state where the business is to be carried on exempts from taxes manufacturing, mining, and certain public utility corporations organized under its laws. The headings relating to corporation taxes, domestic and foreign, in Part II of this book, are uniform in each state, so that comparison of taxation of any state with another may readily be made.

Incorporation under the laws of a foreign country may be deemed advisable. The New York Times for May 10, 1922, refers to a Canadian corporation organized on the part of citizens of the United States to do business in Brazil.

27. Locating agency for transfer of stock and conducting management within favorable taxing jurisdiction

The federal tax on transfer of shares applies to United States corporations, regardless of whether the shares are trans-

ferable within or without the United States, and it applies to foreign corporations maintaining transfer agencies within the United States. Only three states, however, at the date of this writing, impose stamp taxes on the transfer of shares, namely, New York, Massachusetts, and Pennsylvania. It is obvious that corporations organized under the laws of other states are under no obligation, so far as tax laws are concerned, to maintain agencies in or transfer their stock in these states. As to whether domestic corporations of these states may lawfully escape stamp taxes by locating transfer agencies outside their respective jurisdictions is a more difficult question. It must be conceded that these laws can have no extraterritorial effect as such.

New York does not attempt to collect the tax when transfers are completely made outside the state. Pennsylvania, on the other hand, rules that transfers of stock of Pennsylvania corporations, to be valid, must be made in Pennsylvania, and, when made in Pennsylvania, are subject to the tax.

Conducting the management of a corporation from a relatively favorable state, from the tax point of view, is clearly the exercise of a lawful right, and is important, because apportionment of a corporation's taxability among the several states will usually result in the larger measure of assets or of income being attributable to that state.

28. Confining operations in foreign states to interstate commerce

The power granted to Congress under the Constitution to regulate commerce among the several states operates as a restriction upon state taxation. If the method or extent of operations in the state or states outside of the state of organization can be confined to methods which constitute interstate com-

merce, as distinguished from what is technically called "doing business," then taxation by such states will be avoided. Methods which have been construed by the courts to constitute interstate commerce will now be discussed.

Selling goods through mail orders is clearly interstate commerce. *Pierce Heating Co. v. A. Siegel Gas Fixture Co.*, 60 Mo. App. 148 (1895).

Sales by drummers or agents.—The sending of traveling salesmen into foreign states is but a slight extension of the theory of soliciting business by mail. It is established without exception that the mere solicitation of orders by traveling salesmen is interstate commerce. In such cases the goods may be shipped directly to the customer,⁸ or to the drummer or agent for delivery to the customer.⁹ In a decision¹⁰ holding an or-

⁸ *Robbins v. Shelby County Taxing Dist.*, 120 U. S. 489, 7 Sup. Ct. 592, 30 L. Ed. 694 (1887); *Pembleton v. Illinois Commercial Men's Ass'n*, 289 Ill. 99, 124 N. E. 355 (1919); *S. A. Maxwell & Co. v. Edens*, 65 Mo. App. 439 (1896); *Blevins v. Fairley*, 71 Mo. App. 259 (1897); *Henderson Woolen Mills v. Edwards*, 84 Mo. App. 448 (1900); *Greenbrier Distillery Co. v. Van Frank*, 147 Mo. App. 204, 126 S. W. 222 (1910); *American Contractor Pub. Co. v. Michael Nocenti Co.* (App. Div.) 139 N. Y. Supp. 853 (1913); *McDowell v. Starobin Electrical Supply Co., Inc.*, 104 Misc. Rep. 596, 172 N. Y. Supp. 221 (1918); *Loeb v. Star & Herald Co.*, 187 App. Div. 175, 175 N. Y. Supp. 412 (1919); *Fruit Dispatch Co. v. Wood*, 42 Okl. 79, 140 Pac. 1138 (1914); *Bertin & Lepori v. Mattison*, 69 Or. 470, 139 Pac. 330 (1914); *Dunn-Salmon Co. v. Edwards*, 60 Pa. Super. Ct. 340 (1915).

⁹ *Louisville Trust Co. v. Bayer Steam Soot Blower Co.*, 166 Ky. 744, 179 S. W. 1034 (1915); *Badische Lederwerke v. Capitelli*, 92 Misc. Rep. 260, 155 N. Y. Supp. 651 (1915); *International Text-Book Co. v. Tone*, 220 N. Y. 313, 115 N. E. 914 (1917); *International Text-Book Co. v. Pigg*, 217 U. S. 91, 30 Sup. Ct. 481, 54 L. Ed. 678, 27 L. R. A. (N. S.) 493, 18 Ann. Cas. 1103 (1910);

¹⁰ *Caldwell v. North Carolina*, 187 U. S. 622, 23 Sup. Ct. 229, 47 L. Ed. 336 (1903); *Rearick v. Pennsylvania*, 203 U. S. 507, 27 Sup. Ct. 159, 51 L. Ed. 295 (1906); *Western Oil Refining Co. v. Lipscomb*,

dinance to be invalid, because it imposed a license fee which interfered with interstate commerce, the United States Supreme Court said: "Nor does the fact that these articles were not separately shipped to each individual purchaser, but were instead sent to an agent of the vendor at Greensboro, who delivered them to the purchasers, deprive the transaction of its character as interstate commerce. It was only that the vendor used two instead of one agency in the delivery." The exhibition of samples does not derogate from the interstate status of the business,¹¹ but the sale of such samples or other goods directly to the customer from those carried by the agent would deprive the transaction of its interstate character and subject the corporation to state and local taxation.¹²

Maintenance of office for interstate commerce only in a state constitutes interstate commerce.¹³ In the Cheney Case the United States Supreme Court said: "The maintenance of the Boston office and the display therein of a supply of samples are in furtherance of the company's interstate business and

244 U. S. 346, 37 Sup. Ct. 623, 61 L. Ed. 1181 (1917); *City of Lee's Summit et al. v. Jewel Tea Co.*, 217 Fed. 965, 133 C. C. A. 637 (1914); *Western Oil Refining Co. v. Dalton*, 131 Tenn. 329, 174 S. W. 1138 (1915).

¹¹ *M. E. Smith & Co. v. Dickinson et al.*, 81 Wash. 465, 142 Pac. 1133 (1914); *Larkin Co. v. Commonwealth*, 172 Ky. 106, 189 S. W. 3 (1916).

¹² *J. R. Watkins Medical Co. v. Williams*, 124 Ark. 539, 187 S. W. 653 (1916); *Wilson & Co. v. Bazaar* (Sup.) 168 N. Y. Supp. 188 (1917); *Shores-Mueller Co. v. Palmer*, 141 Ark. 64, 216 S. W. 295 (1919); *Miellmier v. Toledo Scale Co.*, 128 Ark. 211, 193 S. W. 497 (1917); *Jenks v. Royal Baking Powder Co.*, 131 Minn. 335, 155 N. W. 103 (1915).

¹³ *Norfolk & W. R. Co. v. Pennsylvania*, 136 U. S. 114, 10 Sup. Ct. 958, 34 L. Ed. 394 (1890); *Cheney Bros. Co. v. Massachusetts*, 218 Mass. 558, 106 N. E. 310 (1914), affirmed in 246 U. S. 147, 38 Sup. Ct. 295, 62 L. Ed. 632 (1918).

have no other purpose. Like the employment of the salesmen, they are among the means by which that business is carried on and share its immunity from state taxation." Care must be exercised to prevent such an office from becoming in effect a regular branch office of the company and thereby subjecting the corporation to state taxation and to the necessity of qualifying under the foreign corporation laws.¹⁴ Contracts should be so worded as to require acceptance at the home office outside the state. Under the New York Tax Law (Consol. Laws, c. 60, § 211) the maintenance of "an office in the state" subjects the company to liability for filing a return. Whether this can be enforced against a company which maintains an interstate commerce office only, has not yet been judicially determined.

Business through warehouses.—Shipments from a warehouse in the foreign state to a customer in that state or elsewhere does not constitute interstate commerce.¹⁵ This procedure has been held to constitute "doing business" and to require qualification under the foreign corporation laws of the state where the warehouse is located.¹⁶

Installation in a foreign state will constitute interstate commerce, provided the agreement to install is because "of some intrinsic and peculiar quality or inherent complexity of the article," so that the making of such agreement was essential to the accomplishment of the interstate transactions.¹⁷ But

¹⁴ *Cheney Brothers Co. v. Massachusetts*, 246 U. S. 147, 38 Sup. Ct. 295, 62 L. Ed. 632 (1918); *Pittsburgh Electric Specialties Co. v. Rosenbaum*, 102 Misc. Rep. 520, 169 N. Y. Supp. 157 (1918).

¹⁵ *Coe v. Town of Errol*, 116 U. S. 517, 6 Sup. Ct. 475, 29 L. Ed. 715 (1886).

¹⁶ *American Can Co. v. Grassl Contracting Co.*, 102 Misc. Rep. 230, 168 N. Y. Supp. 689 (1918). But, to contrary, see *Mitchell Wagon Co. v. Poole*, 235 Fed. 817, 149 C. C. A. 129 (1916).

¹⁷ *Browning v. City of Waycross*, 233 U. S. 16, 34 Sup. Ct. 578, 58 L. Ed. 828 (1914). Thus, in *Power Specialty Co. v. Michigan Power*

if, on the other hand, the installation can be accomplished by local workmen, and the corporation proceeds with the work, it is "doing business" within the state.¹⁸

Co., 190 Mich. 699, 157 N. W. 408 (1916), the case was sent back for a new trial, as there was no evidence before the court as to whether this work could be done by the purchasers through local workmen. The work consisted in the installation of six superheaters in a power plant in Lansing. The Supreme Court of Michigan adopted the same test of "intrinsic or peculiar quality or inherent complexity," as a guide to the question of installing a ventilating system, in *B. F. Sturtevant Co. v. Adolph Leitelt Iron Works*, 196 Mich. 552, 163 N. W. 13 (1917). Installation of a soda fountain was considered a reasonable incident of sale, so as to constitute a single act of interstate commerce, in *Puffer Mfg. Co. v. Kelly*, 198 Ala. 131, 73 South. 403 (1916). See also *Citizens' Nat. Bank v. Buckheit*, 14 Ala. App. 511, 71 South. 82 (1916). The erection of a pumping plant was held to be an incident of interstate commerce, in *Dempster Mill Mfg. Co. v. Humphries* (Tex. Civ. App.) 202 S. W. 981 (1918). The Supreme Court of Wisconsin took a very broad view in *S. F. Bowser & Co. v. Savidusky*, 154 Wis. 76, 142 N. W. 182 (1913), where it held that the assembling and installing of machinery were merely incidents of interstate commerce.

¹⁸ *B. F. Sturtevant Co. v. Adolph Leitelt Iron Works* (1917) 196 Mich. 552, 163 N. W. 13 (installation of ventilating system in defendant's plant); *In re Springfield Realty Co.* (D. C. 1919) 257 Fed. 785 (installation of automatic sprinklers); *Phillips Co. v. Everett* (C. C. A. 1919) 262 Fed. 341 (installation of automatic fire sprinklers); *Ensign v. Christiansen* (1920) 79 N. H. 353, 109 Atl. 857 (installation of lighting plant); *Buhler v. E. T. Burrowes Co.* (Tex. Civ. App. 1914) 171 S. W. 791 (installation of screens by agent); *York Mfg. Co. v. Colley* (Tex. Civ. App. 1915) 172 S. W. 206 (installation of ice-manufacturing plant); *Peck-Hammond Co. v. Hamilton Independent School Dist.* (Tex. Civ. App.) 181 S. W. 697 (erection of steam-heating apparatus); *Bryan v. S. F. Bowser & Co.* (Tex. Civ. App. 1919) 209 S. W. 189 (installation of gasoline container and pump); *General Ry. Signal Co. v. Commonwealth of Virginia ex rel. State Corporation Commission* (1918) 246 U. S. 500, 38 Sup. Ct. 360, 62 L. Ed. 854 (installing signal devices and equipment for a railroad); *Kinnear & Gager Mfg. Co. v. Miner* (1916) 89 Vt. 572, 96 Atl. 333 (erection and installation of building materials).

29. Using subsidiary qualifying or domestic corporations of small capitalization

Corporations with large authorized or issued capitalization frequently reduce admission taxes and subsequent annual franchise taxes, in states which impose these taxes on the basis of total authorized or issued capital stock, by themselves refraining from entering these states and in substituting therefor a corporation of like or similar name and purposes, with a small authorized and issued capital stock. Such a substituted corporation may be organized in a favorable state, and entered and qualified as a foreign corporation in a large group or in all the foreign states in which business is done, or domestic corporations of small capital may be organized in each state. Whichever method is adopted, precaution should be taken that such subsidiary corporations are lawfully organized and properly maintained, and that the business they are organized to conduct is actually owned and operated by them. Merely going through the form of such things would result, upon inquiry, in holding this procedure to be a mere subterfuge or evasion of taxes. Unless they are not only actual corporations, but actually use their franchises and actually conduct the business, all the work of organizing and paying to maintain them would be a useless expense, and might constitute a trap through which the parent company would be caught in litigation and subjected to unlooked for fines and other penalties.

30. Pursuing a policy of dividend distribution favorable to stockholders from the point of view of their taxability

As stated elsewhere in this work, corporate taxability includes consideration of the taxability of stockholders as such.

Means, therefore, by which taxes against its stockholders may be minimized, is a proper subject for investigation by the directors of corporations. Distribution of stock dividends results in but the receipt of additional evidences of prior right, and how stockholders can secure a taxable advantage therefrom is difficult to understand as a legal proposition. Practically, however, results seem to show advantages under some circumstances. Distribution of cash dividends in lesser amounts over a period of years is more advantageous to stockholders subject to large income surtaxes than distribution in large amounts in a single year.

The Federal Revenue Act of 1921 contains in section 220 (42 Stat. 247) provision against evasion of surtaxes, as follows:

"Sec. 220. That if any corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its stockholders or members through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, there shall be levied, collected, and paid for each taxable year upon the net income of such corporation a tax equal to 25 per centum of the amount thereof, which shall be in addition to the tax imposed by section 230 [$12\frac{1}{2}$ per cent. on net income] of this title and shall be computed, collected and paid upon the same basis and in the same manner and subject to the same provisions of law, including penalties, as that tax: Provided, that if all the stockholders or members of such corporation agree thereto, the Commissioner may, in lieu of all income, war-profits and excess-profits taxes imposed upon the corporation for the taxable year, tax the stockholders or members of such corporation upon their distributive shares in the net income of the corporation for the taxable year in the

same manner as provided in subdivision (a) of section 218 in the case of members of a partnership. The fact that any corporation is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be *prima facie* evidence of a purpose to escape the surtax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the tax in such case unless the Commissioner certifies that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each."

Difficulties of enforcing this section of the law because of the recognized rule of discretion of directors in determining future needs and policy of the business, and because of inherent difficulty of proving a motive of evasion are discussed at length in Holmes, *Federal Taxes*, 1922, pp. 29-34.

CHAPTER IV

OUTLINE OF TRUST TAXATION AND WAYS BY WHICH TRUSTEES MAY MINIMIZE TAXES

31. Different kinds of trusts from a taxable point of view

The transferring and vesting of property in one person, called a trustee, to be managed and disposed of by him for the benefit of one or more other persons, called beneficiaries or cestuis que trust, constitutes our system of trusts. "A trust is a right of property, real or personal, held by one party for the benefit of another." It implies two interests, one legal and the other equitable; the trustee holding the legal title or interest, and the beneficiary or cestui que trust holding the equitable title or interest. The legal title carries with it the right to the possession and control of the property; the beneficial title carries with it the right to the ultimate enjoyment of the property. The trust was invented and developed in the English Courts of Chancery and comes to the United States as a part of our heritage of English jurisprudence, modified, changed, or limited in certain states by statutory provisions, and absent from the laws of Louisiana because that state derives the basis of its legal system from the Roman law. An eminent legal author¹ has said: "The system of trusts is now so thoroughly recognized that, according to the laws of property in England, and in other countries where the English common law is in force, it is one of the rights of ownership that this division of the complete title should take place.

¹ Bispham's Principles of Equity (6th Ed.) § 49.

If the absolute owner of the property wishes for any reason to have the equitable title only vested in him and the legal title outstanding in another, he has a perfect right to hold and enjoy his property in that way. Nor is it necessary that the *cestui que trust* should be under any disability in order that he may enjoy this privilege. A person *sui juris*, and who is absolute owner of property, may avail himself of the system of trusts, and may keep the legal title outstanding in another as long as he sees fit so to do."

Trusts are created under wills, by deeds, declarations and agreements. No grant, franchise, or charter being sought, there has been no occasion for the imposition of any form of organization tax. Increase in the use of trusts for the carrying on of business, however, has resulted in recent development of some legislation and tax rulings tending towards, if not actually imposing, taxes on trusts in business not imposed upon other forms of trusts. Solely for the purpose of convenience in discussing special or additional forms of taxes sometimes imposed because of the form of the trust, it seems convenient for purposes of this chapter to make distinction between trusts under which the interests of the beneficiaries are evidenced solely by the will, deed, declaration, or agreement, and trusts in which the interests of the beneficiaries are additionally evidenced by transferable certificates.

32. Theory of trust taxation in general—Distinction between different kinds of trusts

In a trust there is a legal interest and its dependency, an equitable interest, which together form really but one entire interest in a property. They are not two distinct properties, and hence, in general theory, taxation of property is not increased, decreased, or in any way affected by the fact that a

trust is created. It has been the generally accepted method of trust taxation, to disregard the fact of trusteeship, except to reach the property, either through the trustee or the beneficiary, and in effect, to levy no other or further tax, because a trust relation has been created. But with the development and extension in use of voting trusts and trusts in general business with transferable shares, variously known as "business trusts," "trust estates as business companies," "Massachusetts trusts," "common-law companies," etc., certain forms of corporate taxes have been levied or attempted to be levied against the trusts classified in this discussion as "trusts with transferable certificates."

33. Taxation of trusts without transferable certificates—General property taxes

Usually taxes are listed or assessed against property held in trust against the trustee the same as if he were the real owner in every respect. Statutes of the various states and their application by court decisions and rulings of tax officials fix the practice in each taxing jurisdiction, varying in detail, but all accomplishing the same substantial result of but one tax, and that tax the same, as if no separation of ownership into legal and equitable had been accomplished. Difficulty sometimes arises and divergence in practice exists in the case of a resident trustee of personal property for a nonresident beneficiary and in the case of a resident beneficiary and a nonresident trustee. These are matters requiring investigation of the laws of the state where a trustee resides, holds property in trust, or does business as a trustee, and of the laws where the beneficiary of the trust resides. A brief survey of the situation is included in the synopsis of the tax laws of each state in Part II of this book. It is the general aim of statutory provision

and construction thereof, to avoid a result of double or additional taxation because of trust ownership and divergence in residence of the owners of the legal and equitable interest. Courts frequently favor this result, even where taxes are entirely escaped by the appointment of nonresident trustees.²

34. Taxation of ordinary trusts, i. e., without transferable certificates—Income taxes

Income from property held in trust is taxed to the individual beneficiaries or against accumulated income in the trust estate, treated as a unit; that is to say, the same as if the trust were a single individual. The rates are the same as if the income accrued or was paid to a partner, instead of the beneficiary or cestui que trust. Under the federal income tax law trustees are required to make (1) a return of income, or (2) a return of information, according to whether the income by the terms of the trust is held for future distribution or whether the income is to be distributed to the beneficiaries, whether or not at regular intervals. When the income is to be retained by the terms of the trust for future distribution the trustees make return and pay the tax on the trust as a unit. In such cases the trust is allowed an exemption of \$1,000, and surtax rates are applied the same as if the trust were an individual person. On the other hand, when the income is distributed or distributable, each beneficiary includes the income apportioned to him whether actually received or not, and pays taxes or not, according to the amount of his total net income as thus increased.³

² *Anthony v. Caswell*, 15 R. I. 159, 1 Atl. 290 (1885); *Lowry v. Los Angeles County*, 38 Cal. App. 158, 175 Pac. 702 (1918).

³ Paragraph 879, Corp. Trust Co. Income Tax Service, 1922.

35. Taxation of trusts with transferable certificates —General property taxes

Taxes on real estate are practically against the real estate itself. So it makes no difference whether the owner is an individual, corporation, trustee of an ordinary trust, or trustee of a trust issuing transferable certificates. Treating the legal and equitable title as one for purposes of taxation, and avoiding double taxation of personal property, even when the trustee and beneficiary reside in different jurisdictions has been discussed in the preceding section. Here it is additionally necessary to consider whether this situation is altered, where trustees issue certificates or transferable shares to beneficiaries. That there is no new right or privilege subject to tax merely because such certificates are issued, and that the division of title into legal and equitable interest is but the exercise of a common-law right, is pointed out in an early New Hampshire decision,⁴ wherein the court says: "When an owner has left his farm in trust for his widow and children, and the trustee, holding the legal title without any beneficial interest, pays the farm tax and expenses out of the farm income, and pays the rest of the income to the widow and children, a second tax for the same amount is not assessed on the equitable title of the widow and children. For the purpose of taxation, the legal title of the trustee and the equitable title of the widow and children are not more than the whole title, legal and equitable, which the testator had in his lifetime. And if the testator, dividing the equitable title and beneficial interest into four shares, gave two shares to his widow, and one share to each of his two children, directed the trustees to issue to them certificates as evidence of their respec-

⁴ *Morrison v. Manchester*, 58 N. H. 538, 563 (1879). See section 126, *Sears, Trust Estates as Business Companies* (2d Ed.).

tive rights in the trust property, and made the certificates assignable and available as personal property, like certificates of corporate stock, and if this disposition of his property were authorized by law the united titles of the trustee and the widow and children would not be more than the title of the testator."

That interests of beneficiaries of a trust evidenced by certificates, are not separate property and taxable to the holders like shares of corporate stock, is further illustrated by a recent decision of the Supreme Court of Arkansas.⁵ A trust estate was established under a declaration of trust. The trustees had an office in Paragould, Arkansas, but the property held in trust consisted of oil and gas leases on real estate in Texas. A certificate of interest showing ownership of \$3,000 in par amount of shares was issued to a resident of Greene county, Arkansas, and taxes were there assessed against him the same as if the certificate was for shares of stock in a corporation. This assessment was set aside by the trial court and their action was affirmed by the state Supreme Court, which, in part, said: "These leases, when purchased, were to be held, developed, and otherwise managed by the trustees for the benefit of those who had invested their money therein. It is manifest, when the language of the trust instrument is considered as a whole, that it was not the purpose of the trustees or the beneficiaries to create anything like a joint-stock corporation or company, or other artificial entity separate and apart from the real owners. We conclude, therefore, that the individual interest or share of each beneficiary in the estate created by the declaration of trust as evidenced by the certificates issued is not subject to taxation under section 9853 of Crawford & Moses' Digest."⁶

⁵ *Greene County v. Smith*, 148 Ark. 33, 228 S. W. 738 (1921).

⁶ Section 9853 provides: "All property, whether real or personal,

36. Taxation of trusts with transferable certificates—Income taxes

A Massachusetts trust—i. e., a business trust issuing transferable certificates to beneficiaries—has been held by the United States Supreme Court⁷ to be taxable with respect to federal income tax merely in the same manner as any other trust. Effort to impose federal income taxes applicable to corporations, because of features giving this form of organization advantages somewhat similar to those of corporations, failed in this case, because there was no “association.” The statute fixes the corporation income tax on “every corporation, joint-stock company or association * * * organized in the United States, no matter how created or organized.” Referring thereto, the Supreme Court said: “If we assume that the words ‘no matter how created or organized’ apply to ‘association,’ * * * still it would be a wide departure from normal usage to call the beneficiaries here a joint-stock association, when they are admitted not to be partners in any sense, and when they have no joint action or interest and no control over the fund. On the other hand, the trustees by themselves cannot be a joint-stock association, within the meaning of the act, unless all trustees with discretionary powers are such.” The court pointed out that, in the declaration of trust in question, the only act which the beneficiaries could be called upon to do would be to consent to an alteration in the terms of the trust.⁸ The trustees were vested with entire control, and ap-

in this state, and all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, of persons residing therein,” etc., “shall be subject to taxation.”

⁷ *Crocker v. Malley*, 249 U. S. 223, 39 Sup. Ct. 270, 63 L. Ed. 573, 2 A. L. R. 1601 (1919).

⁸ For a complete copy of this declaration of trust, see *Sears, Trust Estates as Business Companies* (2d Ed.) pp. 433–439.

pointed their own successors in case of vacancy, the essential terms of the trust being the same as those which the Supreme Judicial Court of Massachusetts had decided distinguished a true trust from a partnership association trust.⁹

A trust pronounced by a United States District Court in Texas¹⁰ to be "substantially identical with the one under consideration by our Supreme Court in *Crocker v. Malley*" was held on that account not to be subject to corporation income and excess profits tax, and that the trustees were obligated only to make return of information as to distribution to beneficiaries, the beneficiaries being taxable on the income paid or distributable to them. The trust in this case was organized to save taxes, but, since it was permanently entered into, this motive did not deprive it of the advantage.¹¹

On the other hand, the Chicago City and Connecting Railways Collateral Trust¹² has been held by a United States District Court in Illinois¹³ to be distinguishable from the form of trust in *Crocker v. Malley* and to be taxable the same as a corporation. The court, in part, said: "There are material differences between the so-called trust in this case and the trust in *Crocker v. Malley*. The trustees here, except for certain fixed things, are not principals at all, but are mere agents of the committee hereinafter referred to. The parties who

⁹ *Williams v. Inhabitants of Milton*, 215 Mass. 1, 102 N. E. 355 (1912).

¹⁰ *Weeks v. Sibley* (D. C.) 269 Fed. 155 (1920), quoted at length in section 6 of this book.

¹¹ See section 6 of this book.

¹² For complete copy of trust agreement, see *Sears, Trust Estates as Business Companies* (2d Ed.) pp. 491-552.

¹³ *Chicago Title & Trust Co., as Trustee of Chicago City & Connecting Railways Collateral Trust, v. Smietanka* (D. C.) 275 Fed. 60 (1921).

conceived and drew up the agreement in question simply built up an organization by the use of language that reads in many respects much like the old corporation law of Illinois. They superimposed that organization upon the four or five corporations owning the street railway system of the city of Chicago by placing the legal title to the capital stock of those corporations in the trustees named, who are to do certain specified things only, and by providing for a committee, which controls even the power of the trustees to vote the capital stock of the street railway companies. This committee is elected by what is called participating shareholders, who hold certificates of common and preferred participating shares issued by the trustees in lieu of the capital stocks of the corporations. The whole agreement is shot through with provisions for control by the committee."

The Treasury Department in its regulations¹⁴ gives effect to the foregoing distinction between trusts controlled exclu-

¹⁴ "Reg. 62, art. 1504. Association Distinguished from Trust.—Where trustees hold real estate subject to a lease and collect rents, doing no business other than distributing the income, less taxes and similar expenses, to the holders of their receipt certificates, who have no control, except the right of filling a vacancy among the trustees and of consenting to a modification of the terms of the trust, no association exists and the cestuis que trust are liable to tax as beneficiaries of a trust, the income of which is to be distributed periodically, whether or not at regular intervals. But in such a trust, if the trustees pursuant to the terms thereof have the right to hold the income for future distribution, the net income is taxed to the trustees instead of to the beneficiaries. See section 219 of the statute and articles 341-348. If, however, the cestuis que trust have a voice in the conduct of the business of the trust, whether through the right periodically to elect trustees or otherwise, the trust is an association within the meaning of the statute." For application of this regulation, see bulletin rulings cited in paragraph 990, Corporation Trust Company's Fed. Income Tax Service, 1922.

sively by trustees and those in which the beneficiaries have a vote or exercise some power in the conduct of the business.

State income taxes are imposed upon beneficiaries because of their residence in the state,¹⁵ or because of residence of the trustees together with the transaction of their business within the state,¹⁶ according to terms of the statutes in question.

37. Taxation of trusts with transferable certificates —Federal capital stock tax and state franchise taxes

A decision by the United States Circuit Court of Appeals for the First Circuit* holds trusts with transferable shares to be "associations" and subject to the federal capital stock tax, reversing the District Court.¹⁷ The lower court relied upon a decision¹⁸ of the United States Supreme Court holding that "Massachusetts trusts" were not subject to the tax imposed by the United States in 1909 known as the corporation income tax,¹⁹ because that tax was sustained²⁰ on the ground that it was not an income tax, but an excise tax measured by income,

¹⁵ Massachusetts (chapter 269, § 9, General Acts 1916); *Maguire v. Trefry*, Tax Commissioner, 230 Mass. 503, 120 N. E. 162 (1918), affirmed 253 U. S. 12, 40 Sup. Ct. 417, 64 L. Ed. 739 (1920). Specific provision is made in Massachusetts for the optional payment of income tax for the beneficiaries by the trustees of trusts with transferable shares, thereby in effect rendering the certificate holders tax free. Dept. Rules and Reg. Mass. Income Tax, 14000-14016.

¹⁶ Wisconsin Stat. 1919, §§ 1087m2 (3) and 1087m10 (5). See *State ex rel. Mariner v. Hampel*, 172 Wis. 67, 178 N. W. 244 (1920).

**Malley v. Howard*, 281 Fed. 363, Corporation Trust Co. War Tax Service, 1922.

¹⁷ *Hecht v. Malley* (D. C.) 276 Fed. 830 (1921).

¹⁸ *Eliot v. Freeman*, 220 U. S. 178, 31 Sup. Ct. 360, 55 L. Ed. 424 (1911).

¹⁹ Act Aug. 5, 1909, c. 6, § 38, 36 Stat. 112.

²⁰ *Flint v. Stone Tracy Co.*, 220 U. S. 107, 31 Sup. Ct. 342, 55 L. Ed. 389, Ann. Cas. 1912B, 1312 (1911).

and a Massachusetts trust had no "franchise" or "privilege" which made it subject to an excise tax. A decision by the Circuit Court of Appeals,²¹ subsequent to *Eliot v. Freeman*, clearly brought out the point that, if an organization obtained a benefit from statute, it would be subject to this tax.

The Treasury Department has made distinction in applying the capital stock tax to Massachusetts trusts between trusts controlled by the trustees and those in which the beneficiaries have a voice, applying the cases noted in section 36 above to capital stock tax the same as to income tax. Treasury Regulations (No. 64, art. 8) state:

"The test of liability in all cases involving trusts of the Massachusetts type is whether the cestuis que trustent have by the terms of the trust agreement a voice in the management or control of the trust. Where the trustees are in complete control of the business, the beneficiaries having no control, except the right of filling vacancies among the trustees, or of consenting to a modification of the terms of the trust, or of dissolving the trust, no association exists. If, however, the cestuis que trustent have a voice in the control or management of the business of the trust, whether through the right to elect trustees periodically, or to remove the trustees, or to restrict the trustees as to the management of the trust or otherwise, the trust is an association within the meaning of the statute. Where the trustees hold in their own right a sufficient number of the certificates of beneficial interest to constitute control as between the beneficiaries, the trust will be held to be an association, regardless of the powers conferred upon the trustee by the instrument creating the trust."

No state had attempted to apply franchise taxes to trusts,

²¹ *Roberts v. Anderson*, 226 Fed. 7, 141 C. C. A. 121 (1915).

until recent legislation²² in New York, by which the term "corporation," used in the franchise tax law against domestic and foreign corporations, was amended so as to read: "The term 'corporation' * * * shall include any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificates or other written instruments."

38. Taxation of trusts with transferable certificates —Stamp taxes, federal and state

Federal original issue stamps, according to Treasury regulations, must be attached to record books with respect to issuance of shares of a trust when control is in the beneficiaries, and are not required when the trustees are in control, the Department applying deductions from *Crocker v. Malley*, in preference to a decision of a United States District Court applying the stamp tax act to trusts generally. Subdivision (b), art. 4, Regulation 40, states: "The issue to the beneficiary of certificates covering shares in the nature of shares of stock, where a number of persons pool their individual properties and appoint trustees having a definite term of office for the purpose of managing it, and retain certain rights of control over the property and a voice in the selection of the trustees, who are authorized to issue the certificates, is subject to tax."

Federal stamp tax on transfers is required, or not, in accordance with the same principle. The Federal Regulations, in this case repeating the above, in article 12, subd. (f), and adding in article 13, subd. (h), the following: "The sale or transfer of certificates issued by trustees, where such trustees are legally appointed for the entire period of the trust and the beneficiaries retain no substantial control over the affairs of the trust, but delegate their proprietary functions to

²² Chapter 408, Laws of 1922.

others, any further control on their part depending upon contingencies, their rights being limited to filling vacancies caused by death, resignation, or disability, is not subject to tax."

Laws of the three states imposing stamp taxes on the transfer of stocks, namely, Massachusetts, New York, and Pennsylvania, made no mention of certificates issued by trustees until amendment of the New York act, effective May 1, 1922. All three states impose the tax on voting trust certificates. The New York law (as amended by chapter 354, Laws of 1922, effective May 1, 1922) includes "all deliveries or transfers of shares or certificates of stock, or certificates of rights to stock, or certificates of deposit representing certificates taxable under this article, in any domestic or foreign association, company or corporation, *or certificates of interest in business conducted by a trustee or trustees,*" etc.²³

The Massachusetts law (section 1, c. 64, General Laws 1920) refers to "transfers of shares or certificates of stock in any domestic or foreign corporation,"²⁴ but the rules²⁵ issued by the Tax Commission state: "By the statute a tax is levied upon all sales and agreements to sell, and upon all deliveries or transfers of shares or certificates of stock of all corporations, whether domestic or foreign, and *of all voluntary associations existing under a written instrument or declaration of trust where the beneficial interests* are divided into transferable certificates of shares, at the rate of 2 cents on each \$100 of the face value or fraction thereof."

The Pennsylvania law (section 1 of act approved June 4, 1915 [P. L. 828; Pa. St. 1920, § 20435]) applies to "transfers of shares or certificates of stock, in any domestic or foreign

²³ Vol. II, Stock Transfer Guide and Service, N. Y., 1715.

²⁴ Vol. I, Stock Transfer Guide and Service, Mass., 1163.

²⁵ Vol. I, Stock Transfer Guide and Service, Mass., 1168.

corporation, copartnership association, or joint-stock company.”²⁶

39. Taxation of trusts with transferable certificates —Inheritance taxes

Inheritance or succession taxes quite generally are imposed by states upon stock of corporations organized under their laws, and more recently in three states such taxes are additionally imposed upon stocks of foreign corporations doing business in, owning property in, or admitted as foreign corporations therein. The statutes imposing these taxes refer to corporate stock, but by analogy the principle on which these statutes rest, namely, the location of property in the state, is applicable to shares in trusts. The Supreme Court of Minnesota²⁷ holds that shares in the Great Northern Iron Ore Properties, which is a trust issuing transferable certificates of beneficial interest, are subject to inheritance tax in that state when owned by a nonresident estate, because “the shares of the mining companies, the corpus of the trust, have always remained here since the transfer to the trustees; the president and secretary of the trustees have always resided here; this secretary and his office force have not only had here charge of the trust estate, its records and business, but such persons have also constituted the secretary and office force of the mining companies; the income from the trust property—that is, from the shares in the mining companies—has always been accounted for and turned over to the trustees in this state; and the trust was planned and authorized by the Great Northern Railway Company, a domestic corporation, and represents property mostly situate in this state, and which belonged to

²⁶ Vol. II, *Stock Transfer Guide and Service*, Penn., 2021.

²⁷ *In re Thorne's Estate*, 145 Minn. 412, 177 N. W. 638 (1920).

the railway company when the trust agreement was made. The Great Northern Railway Company was the real settlor of the trust," etc.

A Massachusetts case ²⁸ held that inheritance tax on shares in a Massachusetts trust in the case of a nonresident was indistinguishable in principle from taxing the right to succession to shares in a corporation organized under the laws of the state. But the present inheritance tax law of Massachusetts confines the tax with respect to shares of trusts organized in Massachusetts and owned by nonresidents to trusts owning real estate in Massachusetts, where the terms of the trust are such as to prevent the shares from being construed to be personal property.²⁹ A Wisconsin decision ³⁰ also brings out the importance of the terms of the trust in construing certificates to be personal property or interests in real estate for purposes of inheritance tax.

The foregoing cases not only illustrate the fact that inheritance taxes may be imposed upon shares in a trust by the state where such interest is located, irrespective of the residence of the deceased owner, but they also show that the real situation is examined in all possible detail to determine such location as opposed to the fixed and more or less artificial standards now applied by statutes to corporate stock.

²⁸ *Peabody v. Treasurer and Receiver General*, 215 Mass. 129, 102 N. E. 435 (1913).

²⁹ See *Sears, Trust Estates as Business Companies* (2d Ed.) pp. 242, 243.

³⁰ *In re Stephenson's Estate*, 171 Wis. 452, 177 N. W. 579 (1920).

40. Summary of taxable advantages of trusts with transferable certificates as compared with corporations

The following table, summarized from foregoing sections, is given as a means of comparing taxable features of trusts issuing transferable certificates with taxable features of corporations:

| | CORPORATION. | BUSINESS TRUST. |
|------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Organization tax. | Imposed. Incorporators ask for charters from the state, and the state places its own price on the privilege. | Not imposed. Trust asks for no privilege. Organization is result of exercise of inherent right to divide legal and equitable title and to contract. |
| Domestic annual franchise tax. | Imposed, on theory that right to be a corporation is franchise or privilege which state may grant or withhold at pleasure of the legislature. | Not imposed, since right to continue as a trust is an inherent right (but see reference to recent New York statutes, in section above). |
| Admission and annual franchise taxes on corporations "doing business" in foreign states. | Imposed, on theory that states may place any conditions they see fit on "foreign corporations doing business" therein. | Not imposed, since business is that of individual trustees, who as citizens of one state have the constitutional right to do business and own property, etc., in other states on same basis as citizens of that state. (See sections 145, 176 and 177, Sears, Trust Estates as Business Companies.) |
| Separate personal property tax. | Imposed on shares of corporate stock, since stock constitutes property aside from corporate entity. | Not imposed. Only tax is on the property, either to the trustee or beneficiary, but not to both. |
| Federal corporation income tax. | Imposed. | Not imposed, unless trust is so drawn or operated as to constitute an "association." |
| Federal capital stock tax. | Imposed when corporation is "doing business," etc. | Not imposed, unless trust is so drawn or operated as to constitute an "association." |
| Federal original issue and transfer stamp taxes. | Imposed. | Not imposed, unless trust is so drawn as to constitute an "association." |

41. Minimizing taxes—Duty of trustees and ways of effecting

"A trustee must play the part of a prudent owner and a prudent man of business—not as if he had himself to consider, but also for the benefit of other people for whom he feels morally bound to provide."³¹ This includes the duty to save money as well as to make money, and necessarily includes the obligation to reduce or to keep down taxes on the trust estate within limits and upon conditions provided by the law. If a trustee makes return and threatens to pay a tax in excess of what the law requires, a beneficiary may secure injunction and restrain the trustee from so acting.³² Since trusts are taxed, in the main, the same as individuals, the suggestions as to ways of minimizing individual taxes in Chapter VI of this book may be used by trustees in conducting trust business from the standpoint of saving taxes. The taking of losses under federal income tax by cash sales, and the avoidance of taxable gains by making exchanges, instead of cash sales, are particularly in point, especially in trusts for investment. It is the duty of trustees to keep trust funds invested in safe and income-producing securities, and they must therefore change investments from time to time.³³ When such changes are made, judgment as to whether cash sales or exchanges should be effected, in the light of possible tax reduction, must now be added to the duties of trustees. Generally it is advantageous to register a deductible loss by making a cash sale, and to prevent or delay registering a taxable profit by exchanging one property for another, as opposed to a cash transaction.

³¹ Sears, *Trust Estates as Business Companies* (2d Ed.) pp. 286, 287.

³² *Weeks v. Sibley* (D. C.) 269 Fed. 155 (1920).

³³ *Villard v. Villard*, 219 N. Y. 482, 114 N. E. 789 (1916).

CHAPTER V

TAXATION OF PARTNERSHIPS AND WAYS OF
MINIMIZING PARTNERSHIP TAXES42. Distinctions between ordinary partnerships and
those having corporate attributes

A partnership has been defined as follows: "A voluntary contract between two or more competent persons to place their money, effects, labor, and skill, or some or all of them, in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them."¹

There are many kinds of partnerships all described in law, but for purposes of reviewing their relative taxability, it appears necessary only to consider what the differences are between "partnership associations," "limited partnerships," and "common-law partnerships."

"*Partnership associations*," sometimes referred to as "joint-stock companies," provide for management by a limited board of trustees or directors, have a period of existence independent of the life of those interested therein, provide for transferability of shares in form similar to corporate stock, and may sue and be sued in the name of some officer. They derive these powers, or some of them, from statutes in New York, New Jersey, Ohio, Pennsylvania, Virginia, and Texas.

"*Limited partnerships*" are another form provided by statute, but differ from the ordinary or "common-law" partner-

¹ Black's Law Dictionary (2d Ed.), citing Story, Partnership, § 2; Cooley, Partnership, § 2; 3 Kent, Comm. § 23. But see statutory definitions in nearly every state.

ship only in respect to the fact that the liability of "special" partners is limited to the stated amount of their contributions to the partnership, the other or "general partners" having all the liabilities of partners in common-law partnerships. Some of the states in which they are provided for are New York (Partnership Law [Consol. Laws, c. 39] art. 4).

"*Common-law partnerships*" is a term used to identify partnerships having the common-law attributes of authority of one partner to bind all the others within the scope of the partnership, that all partners are proper or necessary parties plaintiff or defendant in litigation, each partner is individually liable for partnership debts, that no partner can transfer his interest without consent of the others, and that the partnership must be wound up upon the death of any partner.²

43. Taxation of partnership associations

"Partnership associations" or "joint-stock companies," because of deriving powers above described by express statutory authority, possess "privileges" which bring them into the same class as corporations.³ They may therefore be taxed by the states,⁴ and are by the United States,⁵ on the same basis as

² Exception to the last three attributes under special contract provisions therefor are sometimes provided, but consideration thereof is not pertinent to the present inquiry.

³ *Roberts v. Anderson*, 226 Fed. 7, 141 C. C. A. 121 (1915), the Circuit Court of Appeals, Second Circuit, holding that the United States Express Company was subject to the federal corporation excise tax of 1909 under 36 Stat. 112, because of privileges enjoyed by it under the statutes of New York pertaining to joint-stock companies.

⁴ *People ex rel. Platt v. Wemple*, 117 N. Y. 136, 22 N. E. 1046, 6 L. R. A. 303 (1889).

⁵ Section 2, Revenue Act 1921 (42 Stat. 227), provides: "The term 'corporation' includes associations, joint-stock companies," etc. See Corp. Trust Co. Fed. Inc. Tax Service, and rulings therein cited.

corporations are taxed. This feature has recently brought renewed attention to this form of organization, as against common-law partnerships. Accumulated earnings not being taxable under the federal income tax law to the "shareholders" or "partners" until actually received by them, capital may be increased for future uses of the business with less expense by way of taxes. It thus affords all the advantages of incorporation, except that it continues the individual liability of the "shareholders" or "partners"—an advantage in some businesses where credit is based on this individual liability, and change therefrom might produce unfavorable results to the standing of the firm.

44. Taxation of limited partnerships

Limited partnerships are usually taxed the same as are common-law partnerships.

Regulations of the United States Treasury Department referring to income tax ⁶ state:

"So-called limited partnerships of the type authorized by the statutes of New York and most of the states are partnerships and not corporations within the meaning of the statute. Such limited partnerships, which cannot limit the liability of the general partners, although the special partners enjoy limited liability so long as they observe the statutory conditions, which are dissolved by the death or attempted transfer of the interest of a general partner, and which cannot take real estate or sue in the partnership name, are so like common-law

⁶ Articles 1505, 1506, Reg. 62, pars. 992, 993, Corp. Trust Co. Fed. Income Tax Service, 1922, containing references to bulletin rulings on Mississippi, Pennsylvania, Ohio, and Virginia limited partnerships. In re N. Y. Income Tax, see article 227, Personal Income Tax Regulations, Corp. Trust Co. N. Y. Inc. Tax Service, 1921, 1922, par. 775.

partnerships as to render impracticable any differentiation in their treatment for tax purposes. Michigan and Illinois limited partnerships are partnerships. A California special partnership is a partnership.

On the other hand, limited partnerships of the type of partnerships with limited liability or partnership associations authorized by the statutes of Pennsylvania and of a few other states are only nominally partnerships. Such so-called limited partnerships, offering opportunity for limiting the liability of all the members, providing for the transferability of partnership shares, and capable of holding real estate and bringing suit in the common name, are more truly corporations than partnerships, and must make returns of income and pay the tax as corporations. The income received by the members out of the earnings of such limited partnerships will be treated in their personal returns in the same manner as distributions on the stock of corporations. In all doubtful cases limited partnerships will be treated as corporations, unless they submit satisfactory proof that they are not in effect so organized. A Michigan partnership association is a corporation. Such a corporation may or may not be a personal service corporation. See sections 200 and 218 of the statute and articles 1523-1532 (for personal service corporations, paragraph 825). Article 4, Reg. 50, Revised (Capital Stock Tax), reads, in part: "The liability of Virginia limited partnerships is determined in each case from a consideration of the certificate of partnership and all pertinent facts relative thereto."

45. Common-law partnerships—General taxation

Partnerships are taxed the same as individuals in business; that is to say, no form of special or franchise tax is applicable, because the property is owned or the business is conducted by partners rather than by a single person. Often such

taxes are assessed in the firm name and to this extent and for purposes of taxation the partnership is treated as an entity, but this is merely a formality⁷ and results in no greater or different tax than applicable to a single individual. The place of taxation of a partnership is fixed by the statutes of the several states.⁸ This is usually the place where it carries on business, irrespective of the fact that the partners are not residents there, or that property of the partnership is located elsewhere.⁹

46. Common-law partnerships—Income taxation

Partnerships as such are not subject to federal income tax, but are required to make returns, presumably as a check on the individual partners, who are required to include their share of the partnership income in their individual returns, whether such income is distributed to them or not.¹⁰ Similar provision is made in the New York income tax statute and regulations.¹¹

47. Minimizing partnership taxes

Since the ordinary or common-law partnership is not taxed as such, but the individual partners are taxed on a basis equivalent to that of the individual, it is apparent that ideas and suggestions applicable to individual taxes in Chapter VI of this book should be considered in planning future partnership business from the standpoint of saving taxes. Matter in Chapter III relative to minimizing corporate taxes is applicable to partnership associations or joint-stock companies.

⁷ *Faulkner v. Hyman*, 142 Mass. 53, 6 N. E. 846 (1886).

⁸ Rowley, *Modern Law of Partnerships*, §§ 939-941.

⁹ *City of Louisville v. Tatum*, 111 Ky. 747, 64 S. W. 836 (1901).

¹⁰ Articles 331-335, Reg. 62, par. 784, Corp. Trust Co. Inc. Tax Service, 1922.

¹¹ Paragraphs 767-773, Corp. Trust Co. N. Y. Income Tax Service, 1921-1922.

CHAPTER VI

OUTLINE OF INDIVIDUAL TAXATION AND WAYS THAT INDIVIDUAL TAXES MAY BE MINIMIZED

48. The various taxes to be considered

The individual is subject to federal normal and surtaxes on his income; to general property taxes on his real and personal property, levied by states, counties, cities, towns, and school districts where such property is located; to taxation on intangibles in the place of his residence; to state income taxation in some states, because of his residence therein, his ownership of property therein, or his "doing business" therein. He may be subject to various occupational taxes and to various franchise taxes because of the business he is engaged in. Certain documents he executes are subject to federal stamp taxes, his transfers of shares of stock in corporations are subject to federal stamp tax, and additionally to stamp taxes in New York, Massachusetts, and Pennsylvania, if the corporations are organized in these states or their shares are transferred there, and many other special forms of taxes are imposed upon him. Upon his death federal estate taxes and state inheritance taxes of the state where he lived and of the state where he owned property may be assessed and collected. With this array of taxation against him, there is little wonder that the individual taxpayer is becoming more heedful of future taxability incident to new undertakings, and is interested in means by which he can put his house in order with respect to present holdings. Some things which he can do will avoid or reduce a great many

of these taxes; other things will have an effect on but a single form of taxation.

49. The various ways by which taxability is fixed

An individual becomes subject to taxation because he is a citizen, or has his domicile or has a residence within the jurisdiction of a taxing power, or because of doing business or of owning property therein.¹ For example, a citizen of the United States is subject to federal income tax, even if he resides or does all his business abroad. A resident alien is subject to federal income tax, even though his income is wholly from sources outside of the United States. Nonresident aliens are subject to federal income tax "on income from sources within the United States," as specifically defined in the taxing statute.² All these factors, namely, citizenship, residence, doing business, and ownership, besides the factor of domicile, must likewise be considered in determining tax liability to the several states and subdivisions thereof.

Who is a citizen? "Every person born in the United States subject to its jurisdiction, or naturalized in the United States, is a citizen."³ A person is a citizen of the state wherein he was born or has acquired the right to vote.⁴

Who is a resident? The federal tax regulations⁵ say: "An

¹ In *State Tax on Foreign-Held Bonds*, 15 Wall. 300, 21 L. Ed. 179 (1872), it was in effect said that the subjects of taxation within the jurisdiction of a state are necessarily limited to persons, property and business. See *Great Southern Life Ins. Co. v. City of Austin* (Tex. Sup.) 243 S. W. 778 (1922).

² Article 3, Reg. 62, par. 746, Corp. Trust Co. Fed. Income Tax Service, 1922.

³ Article 4, Reg. 62, par. 748, Corp. Trust Co. Fed. Income Tax Service, 1922. For qualifications and limitations of this rule, see full text of this regulation.

⁴ Bouvier's Law Dictionary, p. 490.

⁵ Article 311, Reg. 62, par. 754, Corp. Trust Co. Fed. Income Tax Service, 1922.

alien actually present in the United States, who is not a mere transient or sojourner, is a resident of the United States for purposes of the income tax. Whether he is a transient or not is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country, is not sufficient to constitute him a transient. If he lives in the United States, and has no definite intention as to his stay, he is a resident. One who comes to the United States for a definite purpose, which in its nature may be promptly accomplished, is a transient; but, if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned." These same rules largely may be applied in determining residence in a state, county, city, or town; the exact legal distinctions being determined by local statutes and decisions.

What is domicile? "That place where a man has his true, fixed, and permanent home and principal establishment, and to which, whenever he is absent, he has the intention of returning."⁶ Domicile is an important factor in taxation of personal property, especially intangibles, and in fixing liability for inheritance taxes. It has also become of importance in determining liability to income tax in some states. In practical application it is constantly coming before the courts. Some of the more recent decisions defining domicile are cited in the notes.⁷

⁶ Bouvier's Law Dictionary, p. 915.

⁷ *Agassiz v. Trefry* (D. C. 1919) 260 Fed. 226, affirmed in (C. C. A. 1920) 266 Fed. 8, domicile with respect to Massachusetts income

What is doing business? What constitutes doing business within a jurisdiction, so as to subject an individual to taxation therein, is a most difficult question to answer. An apt illustration of this difficulty is found in the long review of authorities by Surrogate Fowler,⁸ from which he concludes that the word "business" is "among the most indefinite in the English language." In this case it was held that Hetty Green was not doing business and had no capital employed in business in New York making her estate subject to inheritance taxes in New York under a provision of the law imposing the tax upon "capital invested in business in this state by a nonresident of the state doing business therein." Previous litigation had decided that Hetty Green was domiciled in Vermont. Consequently the attempt was made to collect inheritance taxes on her estate as a nonresident. It was shown that she had investments in New York, consisting of bank deposits, mortgages on New York real estate, New York City bonds, corporate stock, and certificates of indebtedness, and that a corporation had been formed to hold her active investments, but she maintained no office in New York and did nothing there, except to protect her investments.

Its temporary character does not deprive a transaction from constituting the doing of "business," so as to attract taxability. An illustration of this rule is found in the case of residents of

tax, full citation of cases and decisions as to change of domicile. *Talley v. Commonwealth*, 127 Va. 516, 103 S. E. 612 (1920). A woman who lived in Richmond, Va., obtained a divorce from her husband there, went to Los Angeles, Cal., and married a resident of California. This changed her domicile to California. Her subsequent return to Virginia, where she lived in a hotel for less than a year, did not change her domicile back to Virginia.

⁸ In *re Green's Estate*, 109 Misc. Rep. 112, 178 N. Y. Supp. 353 (1919), affirmed by the Court of Appeals in 231 N. Y. 237, 131 N. E. 900 (1921).

California, who engaged themselves for a voyage to Alaska as fishermen during the season's salmon run. An Alaska tax of \$5 on every person in the territory was assessed and deducted from their wages. This tax was sustained by the United States Circuit Court of Appeals.⁹

Ownership of property within the jurisdiction of the taxing power is the most common factor of taxability. Taxes may accrue in spite of the fact that the property is but temporarily located therein.¹⁰

50. Various ways by which personal taxes may be avoided or reduced

The following methods have either been adopted within the writer's experience or have received attention in some form or other by the courts: Prompt payment of taxes; securing a working knowledge of tax laws and the making and preserving of records to be used in making tax returns; preventing unfair assessment and illegal taxation; selecting a domicile or residence of favorable taxation; avoidance of investment in properties subject to multiple or oppressive taxation; incorporation of holding companies; the purchase of exempt securities; investment in insurance; confining operations in foreign states to interstate commerce; importers dealing in imports in their original packages; the making of gifts; timing the making of sales and the incurring of loss-

⁹ *Alaska Packers' Ass'n v. Hedensky* (C. C. A.) 267 Fed. 154 (1920).

¹⁰ *Kelley v. Rhoads*, 188 U. S. 1, 23 Sup. Ct. 259, 47 L. Ed. 359 (1903); *Fennell v. Pauley*, 112 Iowa, 94, 83 N. W. 799 (1900); *Grigg-sry Const. Co. v. Freeman*, 108 La. 435, 32 South. 399, 58 L. R. A. 349 (1902); *Brown v. Houston*, 114 U. S. 633, 5 Sup. Ct. 1091, 29 L. Ed. 257 (1885); *Eoff v. Kennefick-Hammond Co.*, 80 Ark. 138, 96 S. W. 986, 7 L. R. A. (N. S.) 704, 117 Am. St. Rep. 79, 10 Ann. Cas. 63 (1906).

es; transferring businesses or securities to corporations, etc.; having deductible losses; and the making of trades and bartering, as opposed to transactions involving money alone. These methods are discussed below in the order named.

51. Prompt payment of taxes, securing a working knowledge of tax laws, and the making and preserving of records to be used in rendering tax returns

Payment of taxes in time to secure discounts sometimes provided for and to avoid addition of interest should not be overlooked as a means of minimizing taxes. For dates of payment, discounts, etc., including estate and inheritance taxes, see synopses in Part II of this book. Every taxpayer should have a general knowledge of tax laws. His employment of counsel, accountants, and tax experts cannot altogether displace information on his own part, at least sufficient to enable him to determine his need of skilled assistance in advance, so as to ward off complications to which total ignorance will lead. It is not hoped that the present volume will supply complete knowledge on the subject, but it directs attention to sources of more detailed information. In section 2 of the synopsis of the federal tax system and of that of each of the states, attention is directed to pamphlet copies of the laws available from official sources. These pamphlets are sometimes out of print and are not always up to date. The federal tax laws and the income tax laws of New York state, and possibly of other states, may be had on the basis of annual subscriptions, in loose-leaf form. The services of this class, which are confined to the publication of official matter, are recommended because of their accuracy and reliability.

The making and preserving of records to be used in ren-

dering tax returns are particularly useful with reference to income taxes. Original entries will support the taxpayer upon the audit, examination, or questioning of his return. Unless some written record is made at the time, many deductible items, including various other taxes paid, will surely be forgotten and may not be provable. In practice, taxing officials treat the return of gross income as an admission by the taxpayer, and deductions as things to be affirmatively proved by the taxpayer. Several banks, trust companies, and brokerage houses offer to supply small tax record books upon request. Caution should be exercised to preserve original books of entry, together with work sheets, until after the tax return has been audited and approved. Do not forget that this often takes several years after your return has been filed.

52. Preventing unfair assessment and illegal taxation

Taxpayers may often reduce the amount of their taxes by taking steps for reassessment or review in advance of final action, after which suits at law or in equity may be necessary for relief. Every taxpayer is entitled to the same good faith and fair consideration by the taxing power in assessing his property, and to the same basis of valuation as is at the same time applied to other property of like character similarly situated.¹¹ All taxing systems provide some form of hearing. Study of the situation should always be made as soon as possible, in order that such hearing as the law affords may be had before the time therefor expires.

Beside the matter of fair assessments and application in some form for relief before taxing officials, it is to be remembered that legal or equitable proceedings are always available,

¹¹ *Birch v. County of Orange* (Cal. Sup.) 200 Pac. 647 (1921).

provided they are brought in the proper form and at the proper time and that the proper basis for an action has been laid. As a suggestion to taxpayers and as a basis for seeking legal advice by them before it is too late, the following review of wrongs in tax cases from Cooley on Taxation (3d Ed.) pp. 1377, 1378, may be useful:

"The wrongs of which one may have occasion to complain in tax cases may arise from either of the following causes:

"The contracting improperly or unlawfully of a debt which can only be paid through taxation.

"The voting of a tax by the public authorities for an illegal purpose.

"The voting of a tax for a purpose that may be legal, but in a way not allowed by law.

"The levy of an excessive tax, whether the excess comes from a disregard of a constitutional or statutory limitation, or arises from the frauds or mistakes of officers.

"The charging of the party in the assessment with subjects of taxation which are either exempt by law, or for other reason not assessable to him.

"The taxing him in a district in which he is not taxable.

"The laying upon him of an excessive or partial assessment, or imposing inadmissible costs or penalties.

"The laying of the tax on some erroneous and inadmissible principle.

"The failure to obey the law in the proceedings to the injury of the party's rights.

"The sale or forfeiture of the party's property under circumstances rendering it illegal."

53. Selecting a domicile or residence of favorable taxation

The right to fix a residence in a place of favorable taxation has been discussed in section 5 of this book. Who is a resident and what constitutes domicile have been explained in section 49. A large amount of the litigation involving these questions has arisen from cases where the taxpayer did not consciously set about fixing a place of taxable residence or domicile. Assuming that a jurisdiction has been selected, not only must records be made, but the actual conduct of the taxpayer must conform thereto. For example, citizens of the United States are known to have forsworn their citizenship to this country, and to have transferred their stocks in corporations of this country to a corporation organized in a foreign country, resulting in avoidance of federal income tax on the dividends from these stocks. If such persons continue to spend a large part of their time in the United States, and continue in any way to show that their domicile has not actually and in good faith been transferred to the foreign country, it is probable that courts in this country will look through the form of the transaction, hold it to be an evasion, levy taxes on the basis of continued citizenship, and possibly add penalties for fraud upon the revenue. Selection of taxable domicile, to be effective, must be actual in every respect. When it is a matter between states, voting, submitting to assessment in the place of selection, referring thereto as the residence in all legal documents, and expressing the intention of returning thereto when absent therefrom, are all essential elements confirming the selection of residence or domicile.

But they will not necessarily be conclusive as a matter of law. Whether a change of residence to escape higher taxes is real or only ostensible is a question of fact, and as such is

to be determined by weighing all the facts and circumstances. A recent decision by the Supreme Judicial Court of Massachusetts¹² illustrates this point. It appears from the opinion in this case that Frank Hanchett, a well-to-do inhabitant of Lowell, formed an intention in 1915 of leaving Lowell. His attention was directed to Dunstable, a town about 10 or 12 miles from Lowell, where the rate of taxation was much less. He rented half a house in that town, and notified the assessors that he had taken up his residence in Dunstable, where he desired to be assessed and have his name placed upon the voting list. On the same day he wrote to the assessors of Lowell what had taken place, and also requested a national bank, in which he was a stockholder, to change his legal residence on its books to Dunstable. He went to the house in Dunstable a few times. In the meantime, his wife and daughter visited his son in Akron, Ohio. Mrs. Hanchett, on her return, visited the Dunstable house, selected some wall paper, did some sweeping, and prepared meals. Hanchett voted at elections in Dunstable and was assessed for taxes there. On the other hand, he still owned a well-furnished residence in Lowell. The trial court held that he was still a legal resident of Lowell, and sustained taxes against him levied on that basis. The Supreme Judicial Court refused to hold that he was a resident of Dunstable as a matter of law. Residence was a question of fact, determination of which by the trial court would not be set aside.

54. Avoidance of investment in properties subject to multiple or oppressive taxation

Considering the probable taxability of a proposed investment is now an important factor in its selection. Rejection because it is oppressively taxed is surely the exercise of a legal

¹² *Rourke v. Hanchett* (Mass.) 134 N. E. 355 (1922).

right and an act of common business prudence. Multiple taxation occurs where the same property is taxed more than once, either by the same or by several jurisdictions. Such a tax may occur through physical location in one jurisdiction, domicile of the owner in another, location of the evidences of ownership in another, and temporary presence of the owner in still another taxing jurisdiction.¹³ Shares of stock in some corporations, especially railroads, are subjected to inheritance taxes in several states. List of waivers required in the case of securities listed on New York Exchange is set forth in the Stock Transfer Guide and Service.

55. Incorporation of personal holding or investment companies

Incorporation for the purpose of owning and managing one's investments has been termed a holding company. It frequently serves many useful purposes: (1) It keeps investments together in permanent form. (2) It enables its founder to make gifts, through distribution of its shares, without disturbing his management (by his retaining a majority of the stock, or by consent of the donees of the stock). (2) It avoids imposition of state inheritance taxes upon the stock it owns in other companies. (4) It avoids the risk, inconvenience, and expense incident to ancillary proceedings upon the founder's death, in states where it owns properties. (5) It reduces the risk of multiple taxation, because the ownership of its securities is always in the one place, and does not shift with the domicile or temporary residence or place of business of the founder. (6) It pays no federal income tax on dividends received from other corporations. (7) It simplifies and reduces

¹³ *Bristol v. Washington County*, 177 U. S. 133, 20 S. Ct. 585, 44 L. Ed. 701 (1900), and cases cited therein.

the expense of administration of the founder's estate, by confining such administration to stock left in the holding company. (8) It avoids state inheritance taxes altogether, where the holding company is organized in a state which imposes no tax on shares of nonresident deceased stockholders (Delaware, for example), and the owner resides in a state which imposes no inheritance tax (Florida, for example). The same result would be obtained, of course, where the state of organization imposes no inheritance taxes of any kind and the owner was likewise domiciled in that state (for example, a Florida holding company, and the founder domiciled in Florida).

Saving of surtaxes, where the founder is content with enhancement of the value of his shares in the holding company rather than the receipt of cash, is a result frequently secured through such an incorporation. It is a result, however, prohibited by the federal Revenue Act. For wording of the present act and comment thereon, see section 30 of this book. The enforcement of this act is difficult because it is illogical. Those who seek to avoid its effect deliberately plan enlargement of the operations of the business, so as to be able to show the need for accumulation of capital, and, in order to offset the presumption arising from acting solely as a holding company, other activities, real estate rental, or even manufacturing, are added. Other interests are sometimes taken into the corporation, so as to get away from the presumptions which the law has attempted to raise to assist in proving evasion. If such things are actually done, as opposed to simulation, mere pretense, or book entries, it is difficult to distinguish them from the exercise of any other legal right.

56. Purchase of exempt securities

Section 213 (b) (4) of the Revenue Act of 1921 (42 Stat. 238) expressly exempts from federal income tax: "Interest upon (a) the obligations of a state, territory, or any political subdivision thereof, or the District of Columbia; or (b) securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916 (U. S. Comp. St. §§ 9835a-9835z); or (c) the obligations of the United States or its possessions; or (d) bonds issued by the War Finance Corporation. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), and in the case of bonds issued by the War Finance Corporation, the interest shall be exempt only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt to the taxpayer from income, war-profits and excess-profits taxes."

The classes of securities described have always been attractive to conservative investors, because of their safety. This feature alone caused competition in their purchase, and a resulting low yield, compared with other forms of investment. The exemption of interest therefrom from the federal income tax has added greatly to their attractiveness as an investment, and to those who are subject to surtaxes they offer the most general means now in use of avoiding income taxes.

Under the Revenue Act of 1921, investors having annual incomes of more than \$20,000 can advantageously include these tax-exempt bonds in their holdings.

In the report of the Committee on Ways and Means recommending a resolution to amend the federal Constitution per-

mitting future taxation federal and state of "tax-exempt securities," a comparison of present investment in tax-free securities and taxable securities is made on a percentage basis, showing in the last column of the tables given below the rate of interest which it is necessary to secure from taxable securities in order to equal the result of investment in a tax-free 5 per cent. security.

These tables, with explanation by the Committee, are as follows:

**ADVANTAGE OF INVESTING IN TAX-FREE SECURITIES AS
COMPARED WITH A LIKE INVESTMENT IN
TAXABLE SECURITIES.**

1. In each case \$40,000 is assumed to be invested in a tax-free 5 per cent. security and by comparison in a taxable stock bearing the necessary rate of interest so as to yield the same income after paying the income tax of the existing law.

| Net income of investor, exclusive of that from the above investment. | Net income of investor from the above investment, after paying income tax on same. | | Surtax on dividends. | Income from taxable stock before paying tax. | Necessary rate of interest of taxable security. |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------|---------------------|----------------------|----------------------------------------------|-------------------------------------------------|
| | With tax-free security. | With taxable stock. | | | |
| | | | | | <i>Per Cent.</i> |
| \$4,000..... | \$2,000 | \$2,000 | \$0.00 | \$2,000.00 | 5.00 |
| \$16,000..... | 2,000 | 2,000 | 105.26 | 2,105.26 | 5.26 |
| \$28,000..... | 2,000 | 2,000 | 272.73 | 2,272.73 | 5.68 |
| \$40,000..... | 2,000 | 2,000 | 439.02 | 2,439.02 | 6.10 |
| \$60,000..... | 2,000 | 2,000 | 777.78 | 2,777.78 | 6.94 |
| \$80,000..... | 2,000 | 2,000 | 1,225.81 | 3,225.81 | 8.06 |
| \$100,000..... | 2,000 | 2,000 | 1,846.15 | 3,846.15 | 9.62 |
| \$200,000..... | 2,000 | 2,000 | 2,000.00 | 4,000.00 | 10.00 |
| \$500,000..... | 2,000 | 2,000 | 2,000.00 | 4,000.00 | 10.00 |
| \$1,000,000..... | 2,000 | 2,000 | 2,000.00 | 4,000.00 | 10.00 |

2. Advantage of investing in a tax-free security as compared with any other form of investment, when the income is subject to both normal and surtax, such as a mortgage, commercial bond, etc.

In each case \$40,000 is assumed to be invested in a tax-free security and by comparison the same amount in the other form of investment yielding the necessary rate of profit so as to give the same income after paying the income tax of the existing law. The investor is assumed to be married, without dependents.

| Net income of investor, exclusive of that from the above investment. | Net income of invest- or from the above investment, after paying income tax on same. | | Total tax on receipts from above in- vestment. | Income from taxable security before paying tax. | Necessary rate of interest of taxable security. |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------|------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------|
| | With tax-free security. | With taxable security. | | | |
| | | | | | <i>Per Cent.</i> |
| \$500..... | \$2,000 | \$2,000 | ..... | \$2,000.00 | 5.00 |
| \$4,000..... | 2,000 | 2,000 | \$80.00 | 2,080.00 | 5.20 |
| \$16,000..... | 2,000 | 2,000 | 265.26 | 2,265.26 | 5.66 |
| \$28,000..... | 2,000 | 2,000 | 432.73 | 2,432.73 | 6.08 |
| \$40,000..... | 2,000 | 2,000 | 599.02 | 2,599.02 | 6.50 |
| \$60,000..... | 2,000 | 2,000 | 937.78 | 2,937.78 | 7.34 |
| \$80,000..... | 2,000 | 2,000 | 1,385.81 | 3,385.81 | 8.46 |
| \$100,000..... | 2,000 | 2,000 | 2,006.15 | 4,006.15 | 10.02 |
| \$200,000..... | 2,000 | 2,000 | 2,160.00 | 4,160.00 | 10.40 |
| \$500,000..... | 2,000 | 2,000 | 2,160.00 | 4,160.00 | 10.40 |
| \$1,000,000..... | 2,000 | 2,000 | 2,160.00 | 4,160.00 | 10.40 |

From these tables it is observed that there is an advantage to the investor in tax-exempt securities yielding a 5 per cent. income as compared with an investment of the same sum in the stock of a corporation where the return from that stock is less than from 5 to 10 per cent., depending upon the taxable net income of the investor. In case of an investment of the same sum in a mortgage, corporate bond, or other completely taxable form of investment, the advantage exists unless this latter investment yields from 5 to 10.40 per cent., depending upon the net income.

Where the amount invested is greater than \$40,000, the upper limit will be the same, but the advantage will be somewhat extended where the net income from other sources is small or comparatively small, as is shown in the table below:

Investment of \$1,000,000 in a 5 per cent. tax-exempt security as compared with the investment of the same sum in commercial stocks.

| Net income of investor, exclusive of that from the above investment. | Net income of invest- or from the above investment, after paying income tax on same. | | Surtax on dividends. | Income from taxable stock before paying tax. | Necessary rate of interest of taxable security. |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|---------------------------|-------------------------|----------------------------------------------------------------|-------------------------------------------------------------|
| | With tax-free security. | With taxable stock. | | | |
| \$4,000..... | \$50,000 | \$50,000 | \$7,611.11 | \$57,611.11 | 5.76 |
| \$16,000..... | 50,000 | 50,000 | 13,111.11 | 63,111.11 | 6.31 |
| \$28,000..... | 50,000 | 50,000 | 20,037.74 | 70,037.74 | 7.00 |
| \$40,000..... | 50,000 | 50,000 | 28,923.08 | 78,923.08 | 7.89 |
| \$60,000..... | 50,000 | 50,000 | 38,076.92 | 88,076.92 | 8.81 |
| \$80,000..... | 50,000 | 50,000 | 44,509.80 | 94,509.80 | 9.45 |
| \$100,000..... | 50,000 | 50,000 | 47,058.82 | 97,058.82 | 9.71 |
| \$200,000..... | 50,000 | 50,000 | 50,000.00 | 100,000.00 | 10.00 |
| \$500,000..... | 50,000 | 50,000 | 50,000.00 | 100,000.00 | 10.00 |
| \$1,000,000..... | 50,000 | 50,000 | 50,000.00 | 100,000.00 | 16.00 |

The proposed amendment to the Constitution of the United States reads as follows:

Article —.

“Section 1. The United States shall have power to lay and collect taxes on income derived from securities issued, after the ratification of this article, by or under the authority of any state, but without discrimination against income derived from such securities and in favor of income derived from securities issued, after the ratification of this article, by or under the authority of the United States or any other state.

“Sec. 2. Each state shall have power to lay and collect taxes on income derived by its residents from securities issued, after the ratification of this article, by or under the authority of the United States; but without discrimination against income derived from such securities and in favor of

income derived from securities issued, after the ratification of this article, by or under the authority of such state."

The Committee on Ways and Means, in their report above referred to, say that the present system should be condemned for the following reasons:

"(1) A large portion of property escapes taxation, thereby causing great loss of revenue.

"(2) It violates the ability principle of taxation and unfairly discriminates between taxpayers.

"(3) It impedes private financing.

"(4) It discourages investment in new enterprises.

"(5) It encourages extravagances of governmental agencies.

"(6) It grants a private subsidy to certain interests.

"(7) By withdrawing money from private enterprises it increases the rate of interest required for all enterprises not carried on by the Government and thereby adds to the cost of living.

"(8) It creates social unrest; and that the only practical remedy was by constitutional amendment such as is now proposed.

"It will be observed that the form of the amendment does not forbid the further issuance of tax-exempt securities, but merely permits their taxation by the federal government on the one hand, provided it does not discriminate against securities issued by the states or under their authority in favor of national securities, and that each state, on the other hand, is permitted to tax the securities issued by the federal government, provided the state in levying the tax does not thereby discriminate in favor of securities issued by it or under its authority. In other words, the several states are given the same rights with reference to federal securities that the national government has with reference to the state securities."

The taxpayer is interested in whether this amendment will be adopted, and what its effect will be. Forming a judgment in these matters will have a bearing in determining whether or not he will purchase government, state, and municipal bonds or of different classes thereof. It seems safe to predict that there will be no removal of exemption from any of these issues up to the date this or some other amendment goes into effect, with the possible exception of United States bonds issued under acts not containing an express contract of exemption. Income from future federal bonds may be made taxable by Congress. It is possible a unanimous consent or waiver of the states will be found to be necessary. The limitation on the power to tax state and municipal bonds is due to our scheme of government, under which the states are separate and distinct sovereigns. The power to tax them would involve the power to destroy them according to Chief Justice Marshall's maxim.¹⁴ Therefore the proposition to remove the

¹⁴ This doctrine was first announced in *McCulloch v. Maryland*, 4 Wheat. 316, 4 L. Ed. 579 (1819). In this case the United States Supreme Court held that Maryland could not tax a branch bank of the United States. Chief Justice Marshall said that "the power to tax is the power to destroy," and that, if the states could tax federal agencies, then they could destroy them. The reverse of this situation, namely, an attempt by the United States to tax a state agency, first arose before the United States Supreme Court in *Collector v. Day*, 11 Wall. 113, 20 L. Ed. 122 (1870). A United States revenue collector assessed Probate Judge Day, of Massachusetts, \$61.50 upon his salary, paid out of the treasury of the state for the years 1866 and 1867. Judge Day paid the tax under protest and recovered it, on the grounds that the federal government cannot tax state agencies, on the same reasoning as applied in *McCulloch v. Maryland*, that "the power to tax involves the power to destroy." In *Pollack v. Farmers' Loan & Trust Co.*, 157 U. S. 429, 15 Sup. Ct. 673, 39 L. Ed. 1108 (1895), the court said: "It was long ago determined that the property and revenues of municipal corporations are not subjects of federal taxa-

exemption of state and municipal bond issues from federal taxation goes to the very foundations of the structure of our government.¹⁵ It will undoubtedly take a long time to bring about a change by constitutional amendment and a still longer time, if unanimous consent is found to be necessary. In the meantime, it is possible that Congress will come to a more complete realization of the unfairness and uneconomic results of the high surtax rates which make these securities so attractive to the taxpayer, and by reducing these rates will remove the evils resulting from exemption above mentioned. Because of the apparent remoteness, however, of such action, prudent taxpayers with large incomes will continue to make investments in these securities. In January, 1922, H. C. Sylvester, of the National City Company, stated that approximately \$13,000,000,000 of tax exempt bonds were then outstanding in the hands of the public. Of this total \$9,000,000,000 were bonds of states, cities, and various political subdivisions, and the balance bonds of the United States government and its possessions, Federal Land Bank bonds and District of Columbia and postal savings 2½ per cent. bonds.

The exemption of state and municipal securities and income therefrom from state taxation is a matter governed by the Constitutions and laws of each state. There is nothing to prevent one state from taxing the securities issued by another state or

tion. The same want of power to tax the property or revenues of the states or their instrumentalities exists in relation to a tax on the income from their securities."

¹⁵ This subject is very ably discussed and the authorities reviewed by Senator William E. Borah in an address to the Senate February 10, 1910. Vol. 56, Congressional Record, pp. 11854-11862. See, also, article by William Howard Taft, vol. 56, Congressional Record, p. 12451.

issued by a municipality in another state,¹⁶ or taxing its own state bonds or the bonds of municipalities in its own state, in the absence of express prohibition in its own Constitution or laws.

Exemptions from various forms of state taxation are described in the synopses of tax systems in Part II of this book.

57. Investment in insurance

Insurance affords several means for the substantial reduction of taxes.

To the insured, there are the direct advantages, under the federal income tax, that there shall be exempt from taxation:

"The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract. * * *

"Amounts received through accident or health insurance."¹⁷

To the objects of the insured's bounty, there are the advantages:

(a) "That the proceeds of life insurance upon the death of the insured"¹⁷ are exempt from federal income tax. This exemption formerly applied only to proceeds payable to individuals (including partnerships) and to the estate of the insured. Under the Act of 1921, it now includes proceeds payable to corporations.

(b) If payable to named beneficiaries the proceeds of such insurance are exempt up to \$40,000 from federal estate tax.¹⁸

¹⁶ *Bonaparte v. Appeal Tax Court*, 104 U. S. 592, 26 L. Ed. 845 (1881).

¹⁷ Section 213 of the Revenue Act of 1921 (42 Stat. 238).

¹⁸ Section 402, subd. (f), of the federal Estate Tax Law (42 Stat. 278), includes in the determination of the value of the gross estate

As this exemption is in addition to the general \$50,000 exemption, it follows that, if nothing but insurance forms the estate, \$90,000 thereof will be exempt from federal estate tax. Such

of the deceased: "To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over \$40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life." Regulations 37, arts. 32-34, provide:

Taxable insurance.—The statute provides for the inclusion in the gross estate of certain forms of insurance taken out by the decedent upon his own life. Two kinds of insurance are taxable: (a) All insurance payable to the estate; (b) insurance payable to individual beneficiaries to the extent that it exceeds \$40,000. The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficial societies operating under the lodge system. Insurance is deemed to be taken out by the decedent in all cases where he pays the premiums, either directly or indirectly, whether or not he makes the application. On the other hand, the insurance should not be included in the gross estate, even though the application is made by the decedent, where the premiums are actually paid by some other person or corporation, and not out of funds belonging to, or advanced by, the decedent. Where the decedent takes out insurance in favor of another person or corporation, as collateral security for a loan or other accommodation, and the decedent, either directly or indirectly, pays the premiums thereon, the insurance must be considered in determining whether there is an excess over \$40,000. Where the decedent assigns a policy, and retains no interest therein, and thereafter pays no part of the premiums, the insurance will not be considered in determining whether there is such a taxable excess.

Insurance in favor of the estate.—The provision requiring the inclusion in the gross estate of all insurance receivable by the executor, without any deduction, applies to policies made payable to the decedent's estate, or his executor or administrator, and all insurance, regardless of the manner of execution, which is in fact receivable by the estate, or which must be used to pay charges against the estate or the expenses of administration. This provision includes insurance taken out to provide funds to meet the estate tax,

insurance is fully exempt from state inheritance taxes,¹⁹ except in Wisconsin.²⁰ Some authorities question the validity of the federal limitation and the Wisconsin provision taxing all such insurance.

(c) If beneficiaries pay the premiums out of their own income the entire proceeds are exempt from federal estate tax.²¹

state inheritance taxes, or any other legal charge upon the estate. The manner in which the policy is drawn is immaterial, so long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of the charge.

Insurance receivable by other beneficiaries.—The estate is entitled to only one exemption of \$40,000 upon insurance payable to beneficiaries other than the executor. For example, if the decedent left life insurance payable to three persons, in amounts of \$10,000, \$40,000, and \$50,000 (total \$100,000), the amount of \$60,000 should be returned for taxation, which is the excess of the sum of the three policies over the exempted amount. The word "beneficiary," as used in reference to the \$40,000 exemption, means a person entitled to the actual enjoyment of the insurance money.

¹⁹ For citation and discussion of cases upon which exemption of insurance is based, see Gleason & Otis, *Inheritance Taxation* (2d Ed.) pp. 157-173. See *Trust Companies Magazine*, Feb., 1921, for article by Gilmer P. Smith, attacking right to tax insurance payable to named beneficiaries, under any form of estate or inheritance tax law, and stating: "The United States now stands alone in attempting to tax this species of property. The state of Tennessee, in 1919, copying after and following the example of the United States, passed an inheritance tax law taxing life insurance payable to beneficiaries other than decedent's estate. This law was unanimously repealed by both houses at the 1921 session of the Tennessee Legislature."

²⁰ Chapter 72, Wisconsin Statutes 1921, § 7201(7): "Insurance payable upon the death of any person shall be deemed a part of his estate for the purpose of the tax, and shall be taxable to the person or persons entitled thereto." This statutory provision was sustained by the Supreme Court of Wisconsin. *In re Allis' Will*, 174 Wis. 527, 184 N. W. 381 (1921).

²¹ Reg. 37, art. 32, Corp. Trust Co. War Tax Service, 1922, par. 122.

(d) The income from income insurance is exempt from income tax to the beneficiaries, if so fixed by the insured and not left to election by the beneficiaries.²²

(e) To the foregoing there must be added the great advantage to the estate of cash afforded by insurance to pay the various taxes due and thus save property from forced sale. The federal estate tax is due one year from the decedent's death. If not paid within 1 year and 180 days after the decedent's death, interest at 6 per cent. per annum from the first year is added. State inheritance tax laws usually allow discounts from 4 per cent. to 5 per cent. for immediate payment, and add 6 per cent. to 10 per cent. for delayed payments. See section 7 (c) in synopses in Part II of this book. Then there are income taxes on the deceased's income to the time of his death, and it should be remembered that if a person pays his tax in quarterly installments there will always be 12 months and possibly 14½ months period to be paid for at his death. Then come taxes on the estate during administration. To meet all these taxes, where insurance money is not available, going businesses and securities are often sold at a sacrifice.

Insurance is likewise exempted from state taxation, income and otherwise, in various forms, for which see synopses in Part II of this book.

Investment in insurance, especially when made payable to specified beneficiaries, adds greatly and surely to the net amounts actually received by the beneficiaries of an estate. It is a form of tax saving expressly encouraged by legislation.

Tax saving from insurance is often increased by adding features of gifts thereto. See section 60 of this book. For example, transferring of securities to beneficiaries, so that the

²² Bulletin No. 35-21, p. 6, Aug. 31, 1921.

income therefrom will pay the premiums, still further reduces taxes, inasmuch as the income then does not come into the hands of the donor. The creation of a trust for this purpose insures the carrying out of the object of the donor and relieves the beneficiaries from responsibility and attention to details. This method of tax saving is beginning to be exploited by insurance and trust companies and is commonly referred to as an "insurance trust." It is usually a simple arrangement under which the insured transfers his life insurance policies and income producing securities to a trust company under a trust agreement directing the trust company to collect the income and to pay the premiums therefrom. If the income is not sufficient, the trust company is authorized to sell the securities as required and to pay premiums from principal. If the income is in excess of requirements, the excess is used for purchase of further insurance or is distributed among the beneficiaries of the trust. Section 16, New York Personal Property Law (Consol. Laws, c. 41), against accumulation of income, appears to stand in the way of a trust in the form just described. Residents of this state, however, may create an insurance trust, in a state whose trust laws are more liberal, or may pay the premiums themselves, as was done in the instance under review in *Matter of Voorhees' Estate* (1922) 200 App. Div. 259, 193 N. Y. Supp. 168, wherein an assignment of an insurance policy to a trustee was sustained as not subject to transfer (inheritance) tax in that state.

58. Confining operations in foreign states to interstate commerce

Exemption of individuals doing business in states other than that of their residence from taxation not imposed upon citizens and residents of that state, and exemption from taxation

in such foreign states when their business therein is confined to interstate commerce, constitutes an established precedent for saving taxes. Early cases, including the leading one of *Robbins v. Shelby County Taxing District* (1887) 120 U. S. 489, 7 Sup. Ct. 592, 30 L. Ed. 694, involved this doctrine as applied to individuals. More recent cases and the larger amount of those engaging the attention of the courts at the present time involve corporate taxation and therefore this subject has been treated at length in the chapter on corporations. See section 28. Cases on "doing business," etc., are applicable in principle to individual traders as well as to corporations. State income taxes on nonresidents (for review of cases, see 15 A. L. R. 1326) may soon result in a line of new cases applying "interstate commerce" exception from local taxation to individuals.

59. Importers dealing with imports in their original packages

Article 1, § 10, of the federal Constitution, provides that "no state shall, without the consent of the Congress, lay any imposts or duties on imports or exports," etc. Congress has never given such consent, and hence states, and subdivisions thereof, namely, counties, cities, and towns, etc., are powerless to levy any form of tax on imported goods. When such goods cease to be "imported," in the sense of this provision, and become a part of the general property in the state and therefore taxable, became a question for determination by the United States Supreme Court at a stage early in its history. In the case of *Brown v. State of Maryland*²³ Chief Justice Marshall in an elaborate opinion declared an act of the state of Maryland requiring all persons who should sell imported goods by

²³ 12 Wheat. 419, 6 L. Ed. 678 (1827).

wholesale, bale or package, to take out a license from the state, for which they were required to pay \$50, to be in conflict with the constitutional provision above quoted. In this opinion, the court laid down the doctrine that the authority to import without state taxation carried with it the right to sell the goods in the forms and condition, in which they were imported, without such taxation. This has become known as the "original package" doctrine. The same expression is sometimes used to identify goods in interstate commerce as against the "doing of business" subject to state and local taxation, but this application is inaccurate. The true "original package doctrine" applies only to imports. The rule was first applied against an attempt to tax imported goods under a general property tax in the case of *Low v. Austin*.²⁴ The statutes of California in force in 1868 provided that "all property of every kind, name, and nature whatsoever within the state" (with certain exceptions) should be subject to taxation according to its value. At that time Low and others, associated with him and engaged as commission merchants in the business of importing and shipping, received on consignment from France certain champagne wines upon which they paid the duties and charges of the custom house. "They then stored the wines in their warehouse in San Francisco, in the original cases in which the wines were imported, where they remained for sale." Whilst in this condition they were assessed as the property of the said Low and others, for state, city, and county taxes, under the general revenue law of California above mentioned. Low and the others refused to pay the tax, but upon levy by the collector they paid under protest, and brought suit for recovery in a district court of the state. This court found in Low's favor.

²⁴ 13 Wall. 29, 20 L. Ed. 517 (1871).

The state Supreme Court reversed the lower court, but was itself reversed by the United States Supreme Court, which said that "goods imported do not lose their character as imports, and become incorporated into the mass of property of the state, until they have passed from the control of the importer or been broken up by him from their original packages. Whilst retaining their character as imports, a tax upon them, in any shape, is within the constitutional prohibition."

Guided by these decisions, importers may avoid, state, county, and municipal taxes by arranging to import their goods in packages in a convenient form for their trade, and by arranging to sell them in the same original packages without breaking such packages.

60. The making of gifts

Every form of taxation is affected by the making of gifts; but, so far as general property taxes are concerned, the amount of tax collected is not reduced, because the property has been given by one taxpayer to another. On the other hand, income taxes, especially where the donor is subject to surtaxes, are greatly reduced, and inheritance and estate taxes are often avoided, through this method. For example, the gift of securities, even enhanced in value since their purchase, by a father to his daughter, subjects neither to a tax, and the receipt of income therefrom by the daughter subjects her alone to income tax, presumably at a less rate than her father, because his total income brings him into the high brackets of the surtax rates. If he desires to protect his daughter against loss from her own inexperience, or to relieve her from the care and responsibility of management, he makes his gift in the form of a trust. If the gift is made "not in contemplation of death," a term hereinafter more fully explained, his estate

will be saved from state inheritance and federal estate taxes thereon.

Upon disposition of the corpus of the gift by the donee, federal income tax is imposed, or deductible loss from gross income is sustained, depending upon the price being in excess of or less than the cost to the last preceding purchaser of the property.

The matter of gifts brings up, for brief consideration, a review of the legal essentials to make them effective. Whether the whole property goes direct to the donee or recipient of the gift, or whether the legal title goes to a trustee, to be managed for the benefit of the donee, a gift must be complete. That is to say, the donor must do everything to part with the property which the nature of the gift admits; so long as anything remains to be done, the gift is not made. There is no way to enforce a promise to make a gift. If physical delivery is possible, it should be made. If the donor is himself to be the trustee, or some other person or a trust company is trustee, the trust should be clearly declared, preferably in writing, and the property actually delivered to the trustee as such. Oral gifts, without actual passing of physical possession, are very hard to prove.

The making of gifts in the form of a trust makes the tax saving effective by affording protection against inexperience or inability of the beneficiaries, assures the carrying out of the purposes of the gift, and places the details and trouble of management on a trustee, frequently better equipped to handle the business than are the intended donees and beneficiaries themselves. By means of a trust one may very advantageously dedicate a portion of his money, securities, or other property to the accomplishment of any lawful object. The transfer of life insurance policies and income-producing securities to a trust

tee, from which to pay the premiums, described in section 57, is but an example of the application of the trust form to the segregation of property for a particular purpose, outside the future control of the donor, and so that future income may be devoted to that purpose without being subject to taxation against the donor.

Avoidance of inheritance, succession, and estate taxes through the agency of gifts during the life of the donor, as opposed to disposition intestate or by will after death, was a simple matter until the laws imposing these taxes were amended or adopted, with provisions aimed against this practice. In their present form nearly all these laws include as taxable two classes of gifts *inter vivos*, namely: (1) Transfers intended to take effect in possession or enjoyment at or after the donor's death; and (2) transfers made in contemplation of death. Considerable litigation has been occasioned in applying these general terms. See Gleason & Otis, *Inheritance Taxation*. The federal Estate Tax Law additionally provides that "any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without [such] a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death," etc. 42 Stat. 278. Inheritance tax laws of several states have similar provisions. In the absence of such a statute, the burden is on the state to prove that a gift was made in contemplation of death.²⁵ It is clear that "contemplation of death" does not refer to general

²⁵ *Matter of Wadsworth's Estate*, 198 App. Div. 484, 190 N. Y. Supp. 819 (1921); *Matter of Enston's Will*, 113 N. Y. 174, 21 N. E. 87, 3 L. R. A. 464 (1889); *Matter of Beyer's Estate*, 190 App. Div. 802, 180 N. Y. Supp. 396 (1920).

expectation of death, common to us all;²⁶ but just what circumstance of age or impending illness may result in holding a gift to have been in "contemplation of death" cannot clearly be anticipated. For review of authorities showing many close cases sustained as nontaxable, and some that were taxable, see Gleason & Otis, *Inheritance Taxation*. Power of revocation by the donor reserved in a trust deed²⁷ and reservation of power to amend the terms of the trust and to approve investment of the trust funds²⁸ are in and of themselves insufficient to render a gift taxable, in the absence of specific statutory provision. But amendment²⁹ in New York in 1922, and since the cases cited were decided, provides that a transfer is taxable "where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor or donor by reason of any power reserved to or conferred upon the grantor, vendor or donor, either solely or in conjunction with any person or persons to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of the death of the grantor, vendor or donor, thus subject to alteration, amendment or revocation." Practicable means for avoidance of inheritance taxes are being cut down by specific legislation, but unrestricted gifts made by persons in good health still have the effect of avoiding the tax, and such taxes may be effectually reduced by making many

²⁶ *Conway's Estate v. State* (Ind. App.) 120 N. E. 717 (1918); *Spreckels v. State*, 30 Cal. App. 363, 158 Pac. 549 (1916); *State v. Pabst*, 139 Wis. 589, 121 N. W. 351 (1909).

²⁷ *In re Cochrane's Estate*, 117 Misc. Rep. 18, 190 N. Y. Supp. 895 (1921).

²⁸ *In re Bower's Estate*, 195 App. Div. 548, 186 N. Y. Supp. 912 (1921).

²⁹ Chapter 430, Laws 1922.

legacies of amounts sufficiently small, so as to come within exemptions, or so as to pay the smaller percentages under graded rates. The situation as a whole suggests the advisability, from a tax-saving point of view, of creating a trust early in life and giving dependents or objects of one's bounty an independent source of income therefrom immediately upon its creation, to continue after the creator's death. If the creator makes additions to the trust from time to time, it is submitted that only such addition as is "made in contemplation of death" would be taxable, without affecting prior transfers to the fund.

61. Timing the making of profits and the incurring of losses

The federal Income Tax Law, and state laws modeled thereon, or levying taxes with respect to the amount of net income arrived at thereunder, because of surtaxes, because of specific provisions relating to repurchase of the same or like property within a specified time, and because of "capital gain and loss" provisions, make important to the taxpayer the fixing of a favorable time for the making of sales and the incurring of losses.

Losses must be deducted in the year when sustained, unless in the opinion of the Commissioner of Internal Revenue deduction in another taxable period will more clearly reflect the income (Revenue Act of 1921, §§ 214 (a) 6, and 234 (a) 4 [42 Stat. 239, 255]); but this does not prevent a taxpayer from postponing a sale which will result in loss, until a future year, in which he may expect to receive a larger income, against which he can record the loss in question. It must be borne in mind that no loss can be deducted from sale of stock and securities where, within thirty days before or after date of sale,

the taxpayer has acquired (otherwise than by bequest or inheritance) substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition. Revenue Act of 1921, §§ 214 (a) 5, and 234 (a) 4.

The postponing of profitable sales to a later year, so as to reduce taxation for the present year, is a practice sometimes profitable to taxpayers who are subject to high surtaxes in the present year. Such taxpayers should also bear in mind the "capital gain" provisions of the Revenue Act of 1921 (section 206), whereby the tax is limited to 12½ per cent. on capital gain from the sale of property acquired and held by the taxpayer for profit or investment for more than *two years*.

Installment sales, by spreading taxable profit over a period of years, distribute normal taxes and reduce surtaxes. See Art. 42, Reg. 62, par. 1239, Corp. Trust Co. Inc. Tax Service, 1922.

62. Transferring securities or business to corporations, etc., having deductible losses

If a person interested in an enterprise outside of his personal business, and outside the scope of his individual tax return, makes up these losses from time to time by contributions, they may frequently constitute a capital contribution, and are not deductible as a business expense or loss in his own return. If under these circumstances he adds to the capital of the enterprise securities or other income-producing property, so that the income therefrom supplies the needs of the enterprise, taxes are saved, since the taxpayer will have reduced his own income, and the increased income of the enterprise is offset by its expenses. Another application of the same general idea is illustrated by instances where businesses of an anticipated profitable nature are turned over to corporations which have

been run at a loss. If this business is handled by an otherwise profitable company, its income tax is increased by the new business. When handled by the otherwise unprofitable company, its other losses are merely offset, and no more net income is subjected to tax. In the last analysis, so far as the individual taxpayer is concerned, this last transaction merely involves saving immediate taxes to the corporations he is interested in, rather than an ultimate saving to the corporation or to himself.

63. Making of trades and bartering as opposed to transactions involving money alone

Taxpayers will often profit with respect to the federal income tax, and possibly with respect to state income taxes imposed by laws based on the federal statute, by keeping in mind provisions of the law and regulations pertaining to the exchange of property. No gain or loss is recognized in four classes of bartering or exchange of property: First, where property is exchanged for other property not having "a readily realizable market value"; second, even though the property received in exchange has a readily realizable market value, no gain or loss is recognized "where property held for investment is exchanged for other property of a like kind, or where property held for productive use in trade or business is exchanged for other property of a like use"; third, no gain or loss is recognized even when the securities received have the market value described, "when in the reorganization of one or more corporations a person receives in place of any stock or securities owned by him stock or securities in a corporation a party to or resulting from such reorganization"; and, fourth, no gain or loss is recognized, even if the securities received have such a market value, "when (a) a person transfers any property, real,

personal, or mixed, to a corporation, and immediately after the transfer is in control of such corporation; or (b) two or more persons transfer any such property to a corporation, and immediately after the transfer are in control of such corporation, and the amounts of stock, securities, or both, received by such persons are in substantially the same proportion as their interests in the property before such transfer. For the purposes of this paragraph, a person is, or two or more persons are, 'in control' of a corporation when owning at least 80 per cent. of the outstanding voting stock and at least 80 per cent. of the total number of outstanding shares of all other classes of stock of the corporation."³⁰

But where property is exchanged for other property and no gain or loss is recognized, the property received takes the place of the property disposed of, for the purpose of determining gain or loss on future disposition of the received property.

Gain or loss from subsequent sale and exchange of property for other property and money are explained in articles 1567 and 1568 of Regulation 62. Even where money is received in part payment, no tax is incurred until the money payments or marketable property, other than those exempted, exceed cost or basis of gain or loss as fixed by the law. The government gives the following examples:

(1) A. exchanged certain property, which he had purchased subsequent to March 1, 1913, for \$5,000, for real estate having no readily realizable market value and \$2,000 in cash. No gain or loss is realized from such exchange. However, if A. subsequently sells the real estate, the difference between the amount realized therefor and \$3,000, the basis of the property exchanged, reduced by the amount of cash received in the

³⁰ Reg. 62, arts. 1564-1566, Corp. Trust Co. Fed. Income Tax Service 1922, pars. 1457-1473.

exchange, is taxable gain or deductible loss, as the case may be. See, also, article 1564.

(2) A. exchanged certain property, which he had purchased subsequent to March 1, 1913, for \$14,000, for stock having no readily realizable market value and bonds having a readily realizable market value of \$16,000. A. realized a taxable gain of \$2,000, the amount by which the fair market value of the bonds exceeds the cost of the property exchanged. The entire amount received from the subsequent sale of the stock received in the exchange constitutes taxable income.

(3) A., in connection with a reorganization of a corporation, received in place of stock purchased by him subsequent to March 1, 1913, for \$9,000, stock in a corporation, a party to the reorganization, together with cash in the amount of \$4,000. No gain or loss is realized from the exchange. However, if A. subsequently sells the stock, the difference between the amount received therefor and \$5,000, the basis of the old stock, reduced by the amount of cash received in the exchange, constitutes taxable gain or deductible loss, as the case may be.

(4) A. transferred to a corporation, all of the outstanding stock of which was owned by him, property purchased by him subsequent to March 1, 1913, for \$40,000, in exchange for stock and \$50,000 in cash. A. realized from the exchange a taxable gain of \$10,000, the amount by which the amount of the cash exceeds the cost of the property transferred. The entire amount received from the subsequent sale of the stock received in the exchange constitutes taxable income.

It is assumed in the above examples that the property exchanged was not of a kind properly to be included in inventory.

PART II

ALABAMA

(Revised to May 15, 1922)

1. General features of tax system

General property taxes and franchise taxes on corporations are the principal sources of revenue, and are noted below. Poll taxes and business license taxes on all kinds of occupations and trades are also imposed, but are not included herein.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the tax laws may be obtained by addressing State Tax Commission, Montgomery, Alabama. Those pamphlets that contain the tax laws, which have been issued, are: General Revenue Act of 1919, No. 328; chapter 45, Code of Alabama 1907; Revenue Act, License and Privilege Tax Act, Nos. 464, 469, Laws of 1915.

3. State taxing officials

State Tax Commission, Montgomery, Alabama.

4. Income tax

The income tax provisions of the General Revenue Act of 1919 were declared unconstitutional by the Supreme Court of the state in the case of *Grimes v. Eliasberg Bros. Mercantile Co.*, 86 South. 56.

5. General property tax

(a) Base

All tangible real and personal property and all intangible property of companies operating a public utility are subject to the general property tax.

"Real property" is held to mean not only land, city, town, and village lots, but also all things thereunto pertaining and all structures and other things so attached as to pass to a vendee by the conveyance of the land.

"Personal property" includes all things, other than real property, which have any pecuniary value, and moneys, credits, and investments in any bonds, stocks, joint-stock companies, or otherwise. Credits include mortgages.

The gross amount of sales at auction, the gross amount of commissions of any factor, broker, and commission merchant, the gross receipts of all grain elevators, wharves, and stock-yards, and the gross income of all gas works, water works, electric light companies, street railways, toll bridges, and ferries, all canals, ditches, channels, passes, tram roads and pole roads, are treated as property.

(b) Exemptions

- (1) State, county, and municipal bonds.
- (2) All money on deposit in banks.
- (3) All cotton and agricultural crops grown in the preceding year, and all manufactured articles remaining in the hands of producer or manufacturer.
- (4) Household furniture to \$150, \$25 worth of farming or mechanical tools, all family portraits, one yoke of oxen, one cart or wagon, two cows and calves, twenty head of hogs, ten head of sheep, all poultry, etc.
- (5) Pig iron is exempt for twelve months from time of production.

(6) Property used in the manufacture of calcium cyanide is exempt for ten years after beginning construction of such plant.

(7) All property, business, and franchises necessary for the production and distribution of hydro-electric power is exempt for 10 years after the beginning of the construction of any such plant.

(c) Assessment

All property in the state is assessed for the purpose of taxation at 60 per cent. of its reasonable cash value.

There is but one assessment list for state and county purposes. It is made by the county assessor on the basis of sworn statements furnished by the taxpayers. It is made annually, refers to the 1st day of October; it is made up between that date and the 1st of February, with a "supplementary" assessment up to the first Monday in May. Property brought into the state after the 1st of October, unless bought with money already assessed, is taxable. When possible, the assessor interrogates the taxpayer personally.

Failure on the part of any taxpayer to make a return is made a misdemeanor, and in the case of railroad, telegraph and long-distance telephone companies, and other corporations, or persons, whose gross or net receipts are taxable as property, the penalty is 10 per cent. increase. The penalty for public utilities failing to make a return of taxable tangible personal property is not more than 25 per cent. increase, and for each day of default in making a return of intangible property the penalty is \$50 per day.

In valuing real estate, the location, whether vacant or lying idle, or occupied and in use, and, if occupied and in use, the rent derived therefrom, is to be taken into consideration.

The individual shareholders of any corporation paying ad

valorem taxes are not required to list its shares for taxation or to pay ad valorem taxes on such shares.

Shares of stock in corporations, other than railroad, telegraph, long-distance telephone, express, and sleeping car companies, building and loan associations, and banks are assessed at market value, and, if the aggregate value of the shares exceeds the aggregate value of the real and personal property of the corporation assessed, are liable to taxation on sixty per cent. of such excess.

Shares of stock in banks are assessed to the stockholders at a fair and reasonable cash value, less the assessed value of real estate taxes to the bank. The bank pays the taxes for the stockholders. Unincorporated banks are assessed at a fair and reasonable cash value.

(d) Rate

The Constitution of 1875 limited the rate which might be levied for state purposes to 75 cents on each \$100 of assessed valuation; that of 1901 reduced the rate to 65 cents.

(e) Collection

Taxes are collected by the county tax collector. They are due and payable after the 1st of October, and become delinquent on the 1st day of January.

7. Inheritance taxes

There is, at present, no inheritance tax in Alabama, but article 11, § 219, of the Constitution of 1901, provides that the Legislature may levy such a tax.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Are limited to filing and recording fees of about \$10.

(c) Franchise taxes

At the rate of 60 cents on each \$1,000 of paid-up capital payable to the state on January 1st of each year. Two-thirds of this amount goes into the state treasury and the balance is distributed among the counties in which the corporation does business, in proportion to the amount of the taxable value of property of the corporation in each county.

Insurance, express, sleeping car, telegraph, telephone, and railroad corporations are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, to entrance, annual permit, and franchise taxes.

(b) Entrance fees

25 per cent. of actual capital employed or to be employed in the state, if less than \$100; if more than \$100, and not in excess of \$1,000, 25 per cent. on the first \$100, and 5 per cent. on the remaining capital employed or to be employed in the state. If amount in the state exceeds \$1,000, the foreign corporation must pay 25 per cent. on the first \$100, 5 per cent. on the next \$900, and one tenth of 1 per cent. on the remaining amount. Also a permit fee of \$10. Section 3652, Code 1907.

All corporations or mutual companies which have no capital stock, and all corporations which shall engage in this state solely in the business of lending money, pay a fee of \$25.

(c) Annual permit and franchise taxes

A permit fee of \$10 per annum is payable on the 1st day of January. The annual franchise tax is 60 cents on each \$1,000 actually employed in the state, less loans made in the state. Adjustment is made for the first year, depending upon the time when the corporation enters the state.

(d) Taxes against owner of stock in foreign corporations

Shares in foreign corporations are taxable to holders in Alabama under the general property tax.

ARIZONA

(Revised to May 15, 1922)

1. General features of tax system

Arizona depends for revenue mainly upon the general property tax. It is supplemented by a poll tax, an inheritance tax, and license taxes.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of general taxation and revenue laws (including inheritance tax) may be secured from the State Tax Commission, and a copy of the corporation laws of Arizona, which contains the tax law with reference to corporations, may be obtained by addressing the Arizona Corporation Commission, Phoenix, Arizona. A pamphlet copy of the Inheritance Tax Law may be secured from the State Treasurer, Phoenix, Arizona.

3. State taxing officials

State Tax Commission, Phoenix, Arizona.

4. Income tax

There is no income tax in Arizona.

5. General property tax

(a) Base

All property of every kind and nature whatsoever within the state, except as specially exempted, is subject to this tax.

"Real property" is defined to include the ownership of, or claim to, or possession of, or right of possession to, any land, but it does not include unpatented mining claims, either lode or placer. Water ditches, constructed for mining, manufacturing, or irrigating purposes, telegraph lines, and wagon, turnpike, and toll roads, are treated as real estate.

"Personal property" includes all property not included under real estate. Whenever solvent debts (credits) are assessed, the person assessed may deduct his liabilities. Shares of stock are declared to possess no value beyond that of the property of the corporation for which they stand, and are not taxable to the stockholders, but the property they represent is taxable to the corporation. Bank stock is excepted from this rule, and is taxable to the stockholders. Property under mortgage or lease shall be listed by and taxed to the mortgagor or lessor, unless it be listed by the mortgagee or lessee.

(b) Exemptions

- (1) All federal, state, county, and municipal property.
- (2) Public debts, as evidenced by bonds of Arizona, its counties, municipalities, or other subdivisions.
- (3) Property of resident widows, not to exceed \$1,000, where their total assessment does not exceed \$2,000.

(c) Assessment

All property, except that of productive patented and unpatented mines, railroads, telephone, telegraph, express and sleeping car companies, and private car lines, is assessed by the county assessors. It is to be assessed at its full cash value, which is defined as "what the property would be taken for in payment of a just debt due from a solvent debtor." The assessment refers to the first Monday in January, and the roll must be made up between that date and the first Monday in

June. The assessment is based upon a sworn statement furnished to the assessor by the taxpayer, or, in neglect thereof, upon the best information obtainable. The penalty for furnishing a false list is assessment at five times the amount of tax for the year and loss of all rights before the board of equalization. The refusal to file a statement constitutes a misdemeanor, punishable by a fine of not less than \$10 nor more than \$300, or imprisonment for not less than two days nor more than three months, or both. The assessor is liable on his bond for the taxes on property which he neglects to assess. Shares of bank stock are assessed to the shareholders, but the tax, being a lien on shares and dividends, may be paid by the bank.

Transient herds of cattle, sheep, or goats are assessable where the owner resides, or home or headquarters ranch.

Corporate stocks, domestic or foreign, are not taxed; it being considered that the taxes on the holdings of the corporations themselves constitute all the taxes due on the property.

(d) Rate

The state board of equalization determines the tax rate, fixing such rates for the several funds as will raise the amounts authorized by the laws creating those funds. If for any reason the board fails to convene, a rate of 75 cents per \$100 is deemed to be levied.

There is annually levied and collected 5 cents on each \$100, to be known as the "state road tax fund." There is annually levied upon the taxable property in the state a sufficient sum to pay the interest on all bonds issued for the payment of existing and future state, county, municipal, and school district indebtedness, plus an additional amount as will pay 4 per cent. of the total amount issued until all the bonds are paid.

(e) Collection

State taxes, together with county and municipal taxes, are extended on one duplicate assessment roll and are all collected by the county tax collector. Taxes on personal property, however, when they are not secured by real estate are collected by the assessor. They become delinquent on the third Monday in November.

7. Inheritance taxes (effective after July 17, 1922)**(a) General scope and rates**

All property within the jurisdiction of the state, and any interest therein, whether belonging to the inhabitants of the state or not, and whether tangible or intangible, which shall pass by will or by statutes of inheritance of this or any other state, or by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, or intended to take effect in possession or enjoyment after the death of the grantor to any person or body politic or corporate, in trust or otherwise, is subject to an inheritance tax.

Property passing to husband, wife, lineal issue, lineal ancestor, adopted or acknowledged child at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 5 per cent. on amounts over \$500,000. The exemption is \$2,000 to each beneficiary of this class, except the widow, who is allowed \$10,000.

To brother, sister, descendant of either, wife or widow of son, or husband of daughter, 2 per cent. on amounts over \$500 to \$25,000 to 10 per cent. on amounts over \$500,000. To uncle, aunt, descendant of either, 3 per cent. on amount over \$250 to \$25,000 to 15 per cent. on amount over \$500,000.

To brother or sister of grandfather or grandmother, or de-

scendant of either, 4 per cent. on amount over \$150 to \$25,000, to 20 per cent. on amount over \$500,000.

All others 5 per cent. over \$100 to \$25,000 to 25 per cent. on amount over \$500,000.

State institutions and hospitals not conducted for profit are entirely exempt from this tax.

All property of nonresidents within state, subject to same rate of taxation as property of residents. In case of nonresidents, where only a portion of estate is in jurisdiction of Arizona (for instance, stock in Arizona corporations), only such portion of the statutory exemption is allowed as the value of the Arizona stock bears to value of entire estate.

(b) Official in charge of administration and collection

State Treasurer, Phoenix, Arizona.

(c) When inheritance taxes are due—Discount and penalties

Due at expiration of 12 months from death. No discount; 8 per cent. is added from date tax is due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and franchise taxes noted below.

(b) Organization taxes

Are limited to filing and recording fees of about \$25.

(c) Franchise taxes

There is no franchise tax based on the amount of authorized or issued stock, but there is an annual registration tax of \$15, payable to the State Corporation Commission at the time that

the annual report is filed. Section 4850 of the Revised Statutes (1913) states that shares of stock shall not be assessed, nor shall any holder thereof be taxed for such holding. This, however, does not apply to banks or other corporations deriving profit from the use of money.

Foreign insurance companies, domestic and foreign surety companies, express companies, and private car companies are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, and to entrance and annual taxes.

(b) Entrance fees

Filing copy of charter, \$10. Filing appointment of agent, \$5 per county in each county in which it does business. License fee, \$15. Publishing copy of charter six times, rates differ in the several counties; total cost ranges from \$10 to \$50.

(c) Annual registration fee

The annual registration fee is \$15, payable during the month of June in each year.

(d) Taxes against owner of stock in foreign corporations

Owners are not taxed. Corporate stocks are not taxed since it is deemed that property involved is taxed to the corporations themselves.

11. Taxation of trusts and beneficiaries

Trust estates are taxed by their property holdings only.

ARKANSAS

(Revised to May 15, 1922)

1. General features of tax system

Arkansas depends almost entirely upon the general property tax and licenses or privilege taxes; but there is also a poll tax, the proceeds of which are devoted to educational purposes, an inheritance tax, and a corporation tax based on the capital stock.

2. Where pamphlet copies of tax laws may be secured

The following pamphlet copies of the tax laws may be obtained: Digest of the Franchise Tax Laws of the State of Arkansas, 1918, address Arkansas Tax Commission, Little Rock; Corporation Laws of the State of Arkansas, containing the taxes on corporations, address the Secretary of State.

3. State taxing officials

Arkansas Tax Commission, Little Rock, Arkansas.

4. Income tax

There is no income tax in Arkansas.

5. General property tax

(a) Base

All property, except that legally exempt, whether real or personal; all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, of persons residing therein; and property of all banks or banking companies now existing or hereafter created, and of all bankers and brokers, shall be subject to taxation.

"Real property" is held to include not only the land itself, with all things contained therein, but also all buildings, structures, and improvements and other fixtures, and all rights and privileges belonging or in any wise appertaining thereto.

"Personal property" includes every tangible thing, being the subject of ownership, whether animate or inanimate, other than money, and not forming a part of real estate; all boats navigating waters wholly or partly within the state, and all capital belonging to inhabitants of the state invested in water craft located within the state.

(b) Exemptions

(1) Public property used exclusively for public purposes; churches used as such; cemeteries used exclusively as such; school buildings and apparatus (including private schools); libraries and grounds used exclusively for school purposes; and buildings and grounds and materials used exclusively for public charity. Const. art. 16, § 5.

(2) All laws exempting property from taxation, other than as provided in this Constitution, shall be void. Const. art. 16, § 6.

(c) Assessment

Every person of full age and sound mind is required to list the real property of which he is the owner in the county in which he resides and all personal property and money in his possession. The statement with reference to personal property, money, credits, etc., relates to property in his possession or under his control on the first Monday in June of each year. The real estate is listed with the assessor on or before the first Monday in October. All taxes assessed become a lien upon and bind the property assessed on the first Monday in June of the year in which the assessment is made.

(d) Rate of taxation

The rate for state purposes is $2\frac{1}{4}$ mills on the dollar; state capital tax of one-eighth of 1 mill on the dollar, and for the support of common schools 3 mills on the dollar. There is also levied for state purposes a tax of \$1 on every male inhabitant of the state over 21 years of age for common school purposes. For county and school purposes the lawful rate is limited to an amount not exceeding, for all county purposes, 5 mills on the dollar, and for paying indebtedness existing at the time of the adoption of the present Constitution of the state not exceeding 5 mills on the dollar; for the purpose and maintenance of public schools in any school district, county, and to pay existing indebtedness of any such district, a rate not exceeding 7 mills on the dollar. For cities and towns, the amount of taxes levied in any one year for all city or town purposes shall not exceed 5 mills on the dollar, and for paying indebtedness at the time of the adoption of the present Constitution of the state not more than 5 mills on the dollar.

(e) Collection

Taxes are due at any time from the first Monday in January to and including the 10th day of April in such year. All such taxes remaining unpaid after the 10th day of April are considered as delinquent. 10 per cent. against all delinquent taxpayers is added to the assessment.

7. Inheritance taxes**(a) General scope and rates**

All property, whether belonging to inhabitants of the state or not, tangible or intangible, which passes by will or by the intestate laws of the state, or by deed, grant, sale, or gift, made or intended to take effect after death of the grantor, to

any person or corporation in trust or otherwise, is subject to an inheritance tax.

Property passing to father, mother, husband, wife, child, brother, sister, wife of son, widow of son, husband of daughter, adopted child, mutually acknowledged child is taxed at the rate of 1 per cent. upon the amount over exemption to \$5,000. The exemption is \$1,000 to each, except in case of the wife and minor children, where the exemption is \$3,000 to each. The percentage ranges from 1 per cent. up to 8 per cent., varying according to amounts.

Any other person or corporation is taxed at the rate of 4 per cent. as a base, ranging to 32 per cent. on the varying amounts, above an exemption of \$500.

Property for charitable, benevolent, educational, or public purposes is entirely exempt.

All property within the state belonging to nonresidents is subject to tax at the same rates as property of residents.

(b) Official in charge of administration and collection

Inheritance Tax Attorney, Little Rock, Arkansas.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. No discount. Six per cent. is added after six months from death, and 10 per cent. further is added if tax is not paid within 12 months from death; 10 per cent. penalty may be remitted during period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Are limited to filing, issuing, and recording fees of about \$35.

(c) Franchise taxes

An annual franchise tax of one-tenth of 1 per cent. on that part of the subscribed or issued and outstanding capital stock employed in Arkansas; minimum, \$10. If company is organized between May 1 and August 1, it must pay the tax at the time of organization.

Companies having no capital stock, insurance companies, and private car companies are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes on property in Arkansas, described above, and to entrance and annual taxes, set forth below.

(b) Entrance fees

All foreign corporations, except those hereinafter specifically mentioned (i. e., various public service companies and insurance companies) doing intrastate business, or hereafter seeking to do intrastate business in Arkansas, shall pay for the privilege of doing intrastate business the same fees as are prescribed in section 979 for domestic corporations, such fees to be computed upon the proportion of the capital stock represented or to be represented by its property and business in Arkansas; and hereafter any corporation that shall employ an increased amount of its capital within this state shall pay fees at the same rate upon any such increase, and, whenever any such increase is made, such corporation shall file with

the Secretary of State a statement showing the amount of such increase.

The fees prescribed in section 979 are \$25 for the first \$10,000 of authorized capital stock, and one-tenth of 1 per cent. additional on all amounts in excess of \$10,000. Filing appointment of agent, \$1.

All foreign and domestic corporations qualifying under the laws of this state, or organized under the laws of this state, as the case may be, prior to August 1 of each year, shall be liable for the franchise tax by this act prescribed for the year in which said corporation qualified or organized, and each such corporation so qualifying or organizing between May 1 and August 1 shall make and file with the Tax Commission the proper forms at the same time it qualifies or organizes.

(c) Annual fees or taxes

One-tenth of 1 per cent. upon that part of the subscribed or issued and outstanding capital stock represented by property owned and used in business transacted in Arkansas.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations owned by a resident of Arkansas is subject to assessment against him.

11. Taxation of trusts and beneficiaries

Property held in trust is listed for taxation by the trustee. Shares in a business trust, as described in Sears Trust Estates as Business Companies, are not taxable to the holder, as corporate stock would be. See section 35, Part I, of this book, and Arkansas case therein cited.

CALIFORNIA

(Revised to May 15, 1922)

1. General features of tax system

In 1910 the state of California entered upon a radical departure in the methods of raising revenue. In that year a constitutional amendment was adopted providing for the separation of state from local taxation, and providing for the taxation of public service corporations, banks, and insurance companies for the benefit of the state. The amendment further exempts the operative property of these companies from local taxation by counties, cities, towns, and districts, except for the payment of principal and interest on indebtedness existing before November 8, 1910. The state also derives revenue from an inheritance tax and a few licenses. A general ad valorem tax may, however, be levied, if the revenues derived from the sources mentioned fail to meet the requirements of the state. Counties and municipalities depend upon general property taxes and license taxes.

2. Where pamphlet copies of the tax laws, etc., may be secured

A pamphlet copy of the Revenue Laws of the State of California, 1916, may be obtained by addressing the State Board of Equalization, Sacramento, California. The Inheritance Tax Act of California may be obtained from the State Controller, Sacramento.

3. State taxing officials

State Board of Equalization, Sacramento, California.

4. Income tax

There is no income tax in California.

5. General property tax

There is no general property tax now in California for state purposes. Counties and municipalities depend upon general property taxes and license taxes.

7. Inheritance taxes

(a) General scope and rates

An inheritance tax is imposed on the transfer of property, real, personal, or mixed, when the transfer is by will, or by the intestate laws or homestead laws of the state, from any person dying seized or possessed of property while a resident of the state, or by any probate homestead set apart from said property. Portion of joint account or tenancy contributed by decedent is also taxable.

When the transfer is by will or intestate laws of property within the state, and the decedent was a nonresident of the state at the time of his death.

When the transfer of property in the state is made by a resident or a nonresident without valuable and adequate consideration, in contemplation of the death of the person transferring, or when the enjoyment or possession is deferred until his death, such property is taxable as part of the estate of the person making the transfer. The basis of the tax and the amounts exempt are as follows:

Passing to the husband, wife, lineal ancestor, lineal issue, adopted child, mutually acknowledged child, or lineal issue of adopted or mutually acknowledged child, at the rate of 1 per cent. on amount over exemption to \$25,000. The tax is graduated from 1 per cent. to 12 per cent., varying according to

amounts for the above-named individuals. Brother, sister, descendants thereof, wife of son, husband of daughter, at the rate ranging from 3 per cent. for the amount over exemption to \$25,000 to 18 per cent. for the amount over \$500,000. Uncle, aunt, or their descendants, at the rate of 4 per cent. for the amount over exemption to \$25,000 to 20 per cent. for the amount over \$500,000.

Corporations and other persons, at the rate of 5 per cent. upon amount over exemption to \$25,000 to 20 per cent. for the amount over \$500,000.

Property transferred for benevolent, educational, charitable, or public purposes is entirely exempt.

The exemptions range from \$24,000 to wife down to \$500 to corporations or other persons not enumerated.

The property of nonresidents located within the state shall be subject to same rate of taxation as residents.

(b) Official in charge of administration and collection

Inheritance Tax Attorney, State Controller's Office, Sacramento, California.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. Discount of 5 per cent. is allowed if tax is paid within 6 months. If tax is not paid in 18 months, 10 per cent. interest per annum is added, which may be reduced to 7 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

In addition to general property taxes, as above, corporations are subject to organization, annual license, and franchise taxes noted below.

(b) Organization taxes**Fees to Secretary of State:**

| | |
|-------------------------------------------|----------|
| If capital is not more than \$25,000..... | \$ 15.00 |
| \$25,000 to \$75,000..... | 25.00 |
| \$75,000 to \$200,000..... | 50.00 |
| \$200,000 to \$500,000..... | 75.00 |
| \$500,000 to \$1,000,000..... | 100.00 |
| On each additional \$500,000..... | 50.00 |
| Recording fee, about..... | 5.00 |
| Issuing articles of incorporation..... | 3.00 |
| Filing and indexing articles..... | 1.00 |

(c) License taxes

License fee payable annually after charter is filed on or before 6 p. m. of first Monday in February. License tax for balance of calendar year prorated by months, including the month charter is filed, based on authorized capital stock as follows:

| | |
|--------------------------------------------------|----------|
| When capital stock does not exceed \$10,000..... | \$ 10.00 |
| Over \$10,000, but not over \$20,000..... | 15.00 |
| Over \$20,000, but not over \$50,000..... | 20.00 |
| Over \$50,000, but not over \$100,000..... | 25.00 |
| Over \$100,000, but not over \$250,000..... | 50.00 |
| Over \$250,000, but not over \$500,000..... | 75.00 |
| Over \$500,000, but not over \$1,000,000..... | 100.00 |
| Over \$1,000,000, but not over \$3,000,000..... | 200.00 |
| Over \$3,000,000, but not over \$5,000,000..... | 350.00 |
| Over \$5,000,000, but not over \$7,500,000..... | 550.00 |
| Over \$7,500,000, but not over \$10,000,000..... | 800.00 |
| Over \$10,000,000..... | 1,000.00 |

License tax provisions do not apply to educational or religious, etc., corporations, corporations not organized for profits, corporations doing solely interstate business, and public utilities, insurance companies, and banks.

Corporation franchise taxes, at rate of 1.6 per cent. on the actual cash value of the franchise on the first Monday of March of each year.

Public service corporations, insurance companies, and banks are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance, annual license and franchise taxes.

(b) Entrance fees

Fee to Secretary of State for filing, \$75, provided that foreign corporations organized for educational, religious, scientific, or charitable purposes and having no capital stock, and foreign non-profit corporations shall pay a fee of \$5 for filing the articles of incorporation.

(c) Annual license tax

Foreign corporations doing intrastate business shall procure annually from the Secretary of State a license authorizing the transaction of such business in the state, and pay therefor, at the rates enumerated above for domestic corporations.

When the capital stock of any corporation has no par value, the tax shall be \$100; when part of the capital of any corporation has a par value and a part of such stock has no par value, the tax shall be computed upon such par value stock in accordance with the admeasurement schedule herein established, to which sum shall be added the sum of \$50. Building and loan companies and associations shall pay an annual license fee of \$10. All corporations having no capital stock, but organized for profit, shall pay an annual tax of \$10. Said

license tax shall be due and payable to the Secretary of State on the 1st day of January of each and every year. Such license tax shall be paid on or before the hour of 6 o'clock p. m. of the first Monday of February of each year, and, if not so paid, shall at said hour become delinquent, and there shall thereupon be added thereto as a penalty for such delinquency the sum of \$10.

Franchise taxes

Same as domestic corporations, above.

(d) Taxes against owner of stock in foreign corporations

California assesses an ad valorem tax against all stock in corporations owned by a resident, either domestic or foreign, which has for its backing or value property situated outside its jurisdiction, always provided, of course, the existence and ownership be discovered.

11. Taxation of trusts and beneficiaries

Trust properties are for the most part assessed to the trustee, but this may be varied by the terms of the trust.

COLORADO

(Revised to May 15, 1922)

1. General features of tax system

The principal source of revenue for state and local purposes in Colorado is the general property tax. It is administered by the county officials. Considerable revenue for state purposes is also obtained from the inheritance tax and certain fees.

2. Where pamphlet copies of tax laws may be secured

Pamphlets, and the departments to address in order to obtain them, are: Supplement to the Corporation Laws and Constitution of the State of Colorado, 1920; address Secretary of State, Denver. Fee list, containing list of various fees charged in the state, particularly with reference to corporations, apply to Secretary of State, Denver. For copy of Inheritance Tax Law, apply to Inheritance Tax Department, Denver.

3. State taxing officials

Colorado Tax Commission, Denver, Colorado.

4. Income tax

There is no income tax in Colorado.

5. General property tax

(a) Base

All property not expressly exempt by law is subject to taxation. This includes tangible and intangible property and the

money of nonresidents, kept, used, loaned, and invested within the state for profit.

"Real property" includes all lands or interests in land, all mines, minerals, and quarries, and rights and privileges appertaining thereto; also improvements, including buildings, water rights, structures, fixtures, and fences.

"Personal property" includes everything subject to ownership, whether tangible or intangible, not included in real estate. Debts may be deducted from credits. Where property is mortgaged, it is to be taxed as a unit at the value of the property pledged, and the mortgage as such is not to be assessed.

(b) Exemptions

(1) The following classes of property, in addition to public property, are exempt: Public libraries; churches; parsonages to the extent of \$3,000; schools, other than schools held or conducted for private or corporate profit; charity buildings, and the land they occupy; cemeteries; personal property to the value of \$200; and irrigation works used exclusively for irrigating owner's lands.

(2) Except banks, stock in corporations, which are taxed on their property, is not taxable to the owner.

(c) Assessment

With certain exceptions, property is required to be listed and assessed annually at its full cash value as on the 1st day of April by the county assessors, on the basis of returns made by the taxpayers. The assessors determine the value and may examine the taxpayer under oath. Failure to make return, or making false return, if it results in evasion of taxes involved, incurs a penalty of not more than \$1,000. False returns on

mines may be prosecuted as for perjury. The assessment of money and merchandise is based upon the average amount held throughout the year. Railroad, telegraph, telephone, express, sleeping car, and private car companies are assessed by the Tax Commission upon the true value of the property determined by the unit rule on a mileage basis. Special privileges, franchises, and the like are classed as intangible property and assessed in connection with the tangible property as a unit. Corporations (other than those assessed by the tax commission) doing business in more than one county make their returns to the state auditor, and the intangible property is valued by the assessors, and is apportioned among the counties in proportion to their tangible property. Bank accounts are assessed as credits. Residents of the state must list for taxation the average amount of their deposits in all banks, including banks located in other states. Mines are divided into two classes, producing and nonproducing. A producing mine is defined as one yielding \$5,000 or more gross per annum. Producing mines are assessed at a sum equal to one-fourth of the gross proceeds, or, if the net exceeds the gross proceeds, then at an amount equal to said net. Nonproducing mines are not to be assessed at a higher rate per acre than the lowest producing mine in the same location. Shares of capital stock in banks (including national banks) are assessed where the bank is located, and the bank is made the agent of the stockholders for the payment of the tax, returns of assessments, etc. Migrating live stock may be assessed at any time of the year.

(d) Rate

The rate for state purposes is determined by the State Board of Equalization and the Colorado Tax Commission. (There is a legal question as to whether or not the Tax Commission

is not the body to fix this levy; but, in order to obviate any possible misunderstanding, the two boards join in the determination of the amount.) It is, however, limited by statute for purposes other than suppressing insurrections, etc., at 5 mills on the dollar.

(e) Collection

Taxes are paid to the county treasurers, who are the tax collectors. No demand is necessary. They are payable in two installments—one-half on or before the last day of February, and the remainder on or before the last day of July, in the year following the assessment. The penalty for delinquency on the first installment is interest at 1 per cent. per month up to August 1, when this penalty on all overdue taxes becomes interest at the rate of 15 per cent. per annum. All taxes are a permanent lien on the property upon which they are assessed until paid, and may be collected by distraint and sale.

7. Inheritance taxes

(a) General scope and rates

All property belonging to a resident of the state, and all property located in the state, but belonging to a nonresident at time of death, which shall pass by will or by the intestate laws of the state, or which shall be transferred in contemplation of death, is subject to a tax at the following rates:

(1) Passing to the father, mother, husband, wife, child, adopted child or children, or lineal descendants, \$2 on every \$100 of the clear market value of such property, provided that \$10,000 shall be exempt to any of the above-named persons, except wife, who has an exemption of \$20,000. Only the amount in excess of the exemptions is taxable. The tax ranges from 2 per cent. to 7 per cent., varying according to the value of property passing.

(2) Property passing to wife or widow of son, husband or widower of daughter, grandfather, grandmother, brother, sister, or mutually acknowledged child, \$3 on every \$100 over exemption. The exemption is \$2,000 to each person in this class. The rate of tax ranges from 3 per cent. on amount over exemption to \$5,000 to 10 per cent. on amount over exemption if over \$500,000.

(3) Property passing to uncle, aunt, niece, nephew, or lineal descendant of same, \$4 on each \$100 over exemption. The exemption is \$500 to each member of this class. The rate of tax ranges from 4 per cent. to 14 per cent., varying according to the value of property passing.

(4) Property passing to all others, \$7 on each \$100 over exemption. The exemption in this class is \$500. The rate of tax ranges from 7 per cent. to 16 per cent., varying according to the value of the property passing. Property passing for religious, charitable, public, or educational purpose within the state is entirely exempt. Nonresidents are subject to the same rate of taxation as residents upon their property within the state. The estates must be vested in perpetuity in order for the allowance of the exemptions; no exemptions being allowed for life or other limited estates.

(b) Official in charge of administration and collection

Inheritance Tax Commission, Denver, Colorado.

(c) When inheritance taxes are due—Discount and penalties

Due at death. Five per cent. discount is allowed, if paid within six months; 10 per cent. interest per annum from accrual is added, if tax is not paid within one year, except on court certificate that delay is due to unavoidable litigation.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual taxes noted below.

(b) Organization taxes

Fee to Secretary of State: On capital of \$50,000 or less, \$20. On excess of \$50,000, 20 cents on each \$1,000. Issuing certificate of authority, \$5. Fee to county clerk for filing and recording, about \$3.

(c) Annual license tax

An annual license tax is imposed at the rate of 10 cents on each \$1,000 of capital stock; minimum, \$10. In accordance with an old ruling, the Secretary of State requires the payment of the first year's license at the time of incorporation.

Insurance companies pay annually, in lieu of the license tax, 2 per cent. on the gross amount of premiums received for business done in the state.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes as above and to entrance and annual taxes; also fee for filing annual report.

(b) Entrance fees

Fees to Secretary of State:

| | |
|-----------------------------------------------------------|---------|
| Filing certified copy of corporation laws..... | \$ 5.00 |
| Filing certificate of business and agent..... | 5.00 |
| Issuing certificate of authority..... | 5.00 |
| Filing affidavit as to capital stock employed in Colorado | 1.00 |
| If capital stock does not exceed \$50,000..... | 30.00 |

In excess of \$50,000, 30 cents on each \$1,000 of that portion of such excess of capital stock as is represented by its corporate capital, property, and assets employed and located in Colorado, and a like fee of 30 cents on each \$1,000 of that portion of the amount of subsequent increase of stock as represented by the corporate capital, property and assets employed and located in Colorado.

(c) Annual taxes

The corporation must pay, on or before the 1st day of May, to the Secretary of State, an annual corporation license according to that portion of its capitalization which is represented by its corporate capital, property, and assets located and employed in Colorado as follows:

Ten dollars (\$10) when such portion of its capitalization is one hundred thousand dollars (\$100,000) or less, and ten cents (\$.10) on each one thousand dollars (\$1,000) or fractional part thereof, when such portion of its capitalization is more than one hundred thousand dollars (\$100,000).

Fees for filing annual reports

Every such foreign corporation shall pay to the Secretary of State, for the state, a fee for examining and filing such reports (annual report due within sixty days after the 1st day of January in each year) as follows:

All corporations with a capital stock of ten thousand dollars or less, one dollar. All other corporations, five dollars.

CONNECTICUT

(Revised to May 15, 1922)

1. General features of tax system

Connecticut makes practically an entire separation of state from local taxation. The state revenues are derived principally from taxes levied in various forms on insurance companies, savings banks, railroads, express companies, nonresident stocks, notes, bonds, income tax on corporations, income tax on unincorporated mercantile and manufacturing business, and on inheritances. The assessment and collection of taxes on individuals and general property are confined primarily to the town government. The apportionment of public moneys and the fixing of the tax rates are concerns of the school districts, and especially of city governments.

2. Where pamphlet copies of tax laws, etc., may be secured

Taxation pamphlets issued by the state are: Statutes Pertaining to Assessment and Collection of the Personal and Property Tax, published by the Tax Commission; copy of chapter 393, Public Acts of 1921 levying tax on unincorporated mercantile and manufacturing companies, published by Tax Commission. Laws relating to banks, savings banks and trust companies, 1915, compiled by Bank Commissioner, Hartford, Conn.; Public Acts passed by the General Assembly, 1917, relating to banks, savings banks, and trust companies; Corporation Laws of the State of Connecticut, 1919, published by the State, Hartford, Connecticut; copy of the

Inheritance Tax Act may be secured from the Tax Commission.

3. State taxing officials

State Tax Commissioner, Hartford, Connecticut.

4. Income tax

Connecticut does not impose a personal income tax, but it imposes two separate business income taxes:

"(a) On ordinary business, manufacturing and industrial corporations, as distinguished from public service, insurance, water, gas, and electric companies at the rate of 2 per cent. of the net income, provided in every case the tax shall not be less than \$20." See 7 (c), below.

(b) A tax on unincorporated mercantile and manufacturing business, i. e., on "every individual, partnership, fiduciary or association engaged in retail mercantile business, wholesale mercantile business or manufacturing," with respect to such business at the rates of "one dollar on each one thousand dollars or fraction thereof of such gross income from manufacturing or retail mercantile business, and twenty-five cents on each one thousand dollars or fraction thereof of such gross income from wholesale mercantile business conducted within this state during any income year, and there shall be a tax in every case of not less than five dollars."

Any taxpayer whose books of account are satisfactory to the tax commissioner, and show that such taxpayer sustained a financial loss during any income year from the conduct of such business, without making any deduction for salary or other compensation for services to any person financially interested as an owner in the conduct of such business, shall pay no tax computed on the basis of gross income of such

income year, but each such taxpayer shall pay a minimum tax for such income year of five dollars. Each taxpayer claiming to have sustained a loss for any income year shall furnish such information under oath to the tax commissioner as he may require for the purpose of ascertaining whether such taxpayer is subject to a tax in excess of the minimum hereby imposed. If any taxpayer shall be engaged in wholesale mercantile business and in retail business as defined by the provisions of section 1, he shall show in his return the gross receipts of retail mercantile business separately from the gross receipts obtained from wholesale mercantile business, and he shall pay the tax imposed by the provisions of this section at the rate specified in this section for each such business conducted by him.

If the entire business of the taxpayer has not been conducted in this state, the tax shall be computed on the gross income received from business conducted in this state: Provided, in case the tax commissioner shall be satisfied that it is impracticable to determine accurately the gross income received from business conducted in this state, the tax shall be computed on such ratio of the entire gross income as the total real estate and tangible personal property of the taxpayer employed in the business of this state bears to the total value of such property employed in the business everywhere.

Every taxpayer shall make a return under oath annually, within seventy-five days from the date of the expiration of his income year, to the tax commissioner on forms to be prescribed by him.

In case a taxpayer shall fail to make a return within thirty days from the end of his income year, the tax commissioner may make a return of the gross income of such taxpayer from any information in his possession.

5. General property tax

(a) Base

The general property tax is primarily a town tax, but the state may have recourse thereto by vote of the General Assembly. In the event that the General Assembly should impose a tax upon the general list of the state, the property included and the assessment thereof would be the same as for the town. The general list of the state is made up of the assessment lists of the towns as equalized by the State Board of Equalization, and upon this list state and county taxes may be imposed. The state levies a tax on shellfish grounds not included in the territory of any town at the rate of $1\frac{1}{2}$ per cent. on the valuation made by the Shellfish Commissioners, who also collect the tax. The town unit of assessment and taxation includes all property, both real and personal, except that expressly exempt.

"Real property" includes all such property not exempt, as follows: Land and buildings, fisheries, quarries, mines, and ore beds.

"Personal property" includes all notes, bonds, and stocks not issued by the United States; moneys; credits; choses in action; vessels, except registered and enrolled; sailing vessels; barges engaged in trade between this and other states, and registered vessels which are actually engaged in foreign commerce; goods, chattels, and effects, or any interest therein, belonging to any resident in this state. Stocks of foreign corporations are presumed to be taxed in the state in which such corporations are located. The property of certain corporations which pay a direct tax to the state in lieu of other taxes is not subject to the general property tax, and the shares of stock in corporations which are taxed on the corporate property are not taxed to the stockholders individually. The

whole property of every corporation organized under the law of the state whose stock is not liable to taxation, and which is not required to pay a direct tax to the state in lieu of other taxes, and the whole property in the state of foreign corporations is liable to taxation the same as the property of individuals.

(b) Exemptions

(1) In addition to public property, buildings occupied as colleges, academies, churches, public schoolhouses, or infirmaries, and land appurtenant to such infirmaries; parsonages to the value of \$5,000; real estate of scientific, literary, benevolent, or ecclesiastical societies, or public or charitable institutions, etc.

(2) Bonds, notes, and other choses in action may be exempted from local taxation by payment of the 4-mill tax to the State Treasurer. Section 1188, Revised Statutes 1918, as amended by chapter 284, Public Acts 1919.

(c) Assessment

The town assessment serves for state and county taxes as well. The town assessment is, with few exceptions, made by the town assessors as of October 1. Each resident of the town must furnish the assessor with a verified list of all his taxable property at its present true and actual valuation. If the taxpayer fails to make out his list, the assessors are to do it for him, adding 10 per cent. to the valuation as a penalty. Persons not returning lists may be examined by the assessors, and for refusal to appear may be fined an amount not exceeding \$1,000. Taxable property is to be assessed at its full and actual market value, with a few exceptions. The shares of stock in national banks and trust, insurance, investment, and bridge companies are assessed by the State Board

of Equalization, and taxed at the rate of 1 per cent. on the market value. Corporations, domestic and foreign, which do not pay taxes to the state in lieu of other taxation, are assessed on their property as are individuals. Stockholders of a corporation, the whole property of which is assessed in its name, are not to be assessed on their shares.

(d) Rate

The rate for state purposes is voted by the General Assembly. It is the duty of the selectmen to levy the amount of taxes due therefrom upon the town list.

(e) Collection

Collection is made by the town collector as for town taxes. If any town fails to pay its portion of the state tax by the 10th day of November, execution is to issue against the estate of its selectmen for the sum due, and, if returned unsatisfied, then against the inhabitants of the town, who are to be reimbursed by the town.

6. Personal tax

Every person (including women) between the ages of twenty-one and sixty years is liable to pay a tax of two dollars for town and state taxes in lieu of a poll and commutation tax. This tax is due and payable on February 1st of each year.

7. Inheritance taxes

(a) General scope and rates

Chapter 320, Public Acts of 1921:

"All property owned by a resident of this state at the time of his decease, and all real estate and tangible personal property including moneys on deposit, within this state, shares of

the capital stock or registered bonds of all corporations organized and existing under the laws of this state, and all other intangible personal property, including bonds, securities, shares of stock and choses in action, the evidences of ownership of which shall be actually within this state, owned by a non-resident of this state at the time of his decease which shall pass by will or inheritance under the laws of this or any other state or country, and all such property of any decedent which shall pass by deed, grant or gift, made in contemplation of the death of the grantor or donor, or intended to take effect in possession or enjoyment at the death of such grantor or donor, shall be subject to the tax prescribed by chapter 66 of the general statutes as amended. All property passing to or in trust for the benefit of any corporation or institution located in this state which receives state aid, or for the use of a municipal corporation for public purposes within this state, and all gifts of paintings, pictures, books, engravings, bronzes, curios, bric-a-brac, arms and armor and collections of articles of public interest passing to any corporation or institution located in this state for preservation and free exhibition and any gift to any association or corporation in trust for the perpetual care of cemetery plots to an amount not exceeding three hundred dollars, shall be exempt from such tax. The provisions of this act shall not apply to real estate situated without the state.

"All transfers of real or personal estate by gift, deed, grant or other conveyance between parties related by blood or marriage, either by a direct conveyance or by conveyance through a third party, made and completed within one year next prior to the date of death of the grantor or donor shall be construed *prima facie* to have been made in contemplation of death."

Rates.—(1) Property passing to parent, grandparent, husband, wife, lineal descendant, adopted child, adoptive parent, or lineal descendant of adopted child, at the rate of 1 per cent. on the amount over exemption to \$25,000. The rate of tax ranges from 1 to 4 per cent., varying according to amounts, from \$25,000 to over \$200,000.

(2) Property passing to husband of child, wife of child, stepchild, brother or sister of the full or half blood, or descendant of such brother or sister, at the rate ranging from 2 per cent. on the amount over exemption to \$25,000 to 5 per cent. on the amount over \$200,000.

(3) Any other person or corporation at the rate ranging from 5 per cent. on amount over exemption to \$25,000 to 8 per cent. on amount over exemption over \$200,000. The exemptions are: \$10,000 to beneficiaries in class (1); \$3,000 to beneficiaries in class (2); \$500 to beneficiaries in class (3). Property passing for public exhibition within the state, entirely exempt. The property of nonresidents within the state is subject to same rate of taxation as the property of residents, except that, unless the executor or administrator files with the Tax Commissioner certain information relating to the estate within a specified period, the rate is 8 per cent.

Estate tax, in the nature of a penalty, may be assessed in addition to the foregoing. Section 1189 of the General Statutes, Revision of 1918 requires every executor and administrator to file an affidavit showing assessments and taxes paid during the year next preceding the date of death of the decedent, etc., and then the following section (1190) provides:

"All taxable property of any estate upon which no town or city tax has been assessed as provided in section 1189 or upon which no tax has been paid to the state during the year pre-

ceding the date of the death of the decedent, shall be liable to a tax of two per centum per annum on the appraised inventory value of such property for the five years next preceding the date of the death of such decedent, provided the executor or administrator of any estate may, by furnishing evidence to the satisfaction of the tax commissioner that a state, town or city tax has been paid on any of such property for a portion of said five years or that the ownership of such property has not been in the decedent for a portion of said period, obtain a proportionate deduction from the tax hereby imposed, and provided the administrator or executor of such estate may furnish evidence to the tax commissioner that the appraised value of the estate is not in excess of two thousand dollars and a portion of the same passes by will or pursuant to the provisions of the statutes of this state relating to the distribution of intestate estates, to the widow or minor children, as provided in section 1189."

(b) Official in charge of administration and collection

Tax Commissioner, Hartford, Conn.

(c) When inheritance taxes are due—Discount and penalties

Due within 14 months after death. No discount. Nine per cent. interest is added from date tax is due.

9. Domestic corporation taxes

(a) In general

Corporations, in addition to general property taxes above, are subject to an organization tax and to an annual income tax.

(b) Organization taxes

Fees to Secretary of State:

| | |
|--------------------------------------------------------------------------------|------|
| \$1 on each \$1,000 of capital, minimum..... | \$50 |
| Recording certificate of incorporation (50 cents per legal page), minimum..... | 10 |
| Certifying copy for town clerk..... | 2 |
| Filing certificate of organization..... | 1 |
| Recording certificate of organization by town clerk, about | 5 |

(c) Annual income tax

The annual income tax is at the rate of 2 per cent. on such proportion of its net income as its property or gross receipts within the state bears to its total property or gross receipts.

10. Foreign corporation taxes**(a) In general**

In addition to general property taxes on property in the state, foreign corporations are subject to initial and annual registration fees and to an annual income tax described below.

(b) Registration fees

Payable to the Secretary of State as follows:

| | |
|--------------------------------------------|------|
| For filing certified copy of charter..... | \$10 |
| For filing statements..... | 5 |
| For recording appointment of attorney..... | 1 |
| <hr/> | |
| Total | \$16 |

Annual Registration Fee.—For keeping in effect appointment of Secretary of State as attorney upon whom process may be served, \$50 annually must be paid.

(c) Annual income tax

At the rate of 2 per cent. on net income in accordance with a copy, filed on or before April 1st, of the last federal income

tax return. As to foreign corporations "carrying on business" in the state, the tax is apportioned as follows: If such company carries on business outside of this state, a portion of the net income on which the tax is imposed by the United States shall be apportioned to this state as follows: In case of a company deriving profits principally from the ownership, sale, or rental of real estate, and in case of a company deriving profits principally from the sale or use of tangible personal property, such proportion as the fair cash value of its real estate and tangible personal property in this state on the date of the close of the fiscal year of such company in the year next preceding is to the fair cash value of its entire real estate and tangible personal property then owned by it, with no deduction on account of any incumbrance thereon; in case of a corporation deriving profits principally from the holding or sale of intangible property, such proportion as its gross receipts in this state for the year ended on the date of the close of its fiscal year next preceding is to its gross receipts for such year within and without the state.

(d) Taxes against owner of stock in foreign corporations

Section 1199, General Statutes, Revision of 1918, provides that "the stockholders of any corporation, the whole property of which is assessed and taxed in its name, shall be exempt from assessment or taxation for their stock therein."

11. Taxation of trusts and beneficiaries

It will be noted from 4(b), above, that trustees are named as liable to the unincorporated mercantile and manufacturing income tax.

"Every sole trustee residing in this state, having in his hands personal property liable to taxation belonging to the trust estate, shall make return thereof to the assessors of the town

where he resides. If such personal property be in the hands of more than one trustee, then if they all reside in the same town they shall cause such return to be made by one of their number in such town. If they do not all reside in the same town they shall cause such return to be made by one of their number, residing in the town in which the affairs of said trust are managed and administered, to the assessors of such town; but if none of such trustees reside in such town, then they shall designate one of their number who shall make such return to the assessors of the town where he resides. If none of the trustees reside in this state, the assessors of any town in this state in which any beneficiary resides shall set in the list of such beneficiary an amount of such personal property bearing the same proportion to the whole of said property as the amount of income received from said property by such beneficiary bears to the whole income of said property." Section 1209, Gen. Statutes 1918.

DELAWARE

(Revised to May 15, 1922)

1. General features of tax system

The state derives its revenues from corporation, personal income, and inheritance taxes, and from fees and licenses on various occupations. There is no state levy on general property. The counties, cities, and hundreds depend upon the general property, inheritance, and poll taxes. The type of property tax is an old one, including a valuation of ground rentals and an assessment of certain classes of property at statutory values. Many important classes of personal property are exempt. Delaware has practically complete separation of state and local taxation. A peculiarity of the revenue laws of Delaware is the existence of special laws providing for the taxation of certain corporations, such as railroads and banks, individually, or commuting their taxes on special terms.

2. Where pamphlet copies of tax laws, etc., may be secured

Some of the pamphlet copies of the tax laws of the state, and where they may be obtained, are: Law Relating to Income Tax, 1920, apply to State Tax Commissioner, Wilmington. General Corporation Laws of Delaware, apply to the Corporation Trust Company, 37 Wall street, New York City. Manufacturers' Tax Law, with amendments, apply to Secretary of State, Dover. Digest of Personal Income and Corporation Tax Law, Equitable Trust Company, Wilmington, Delaware. Copy of Inheritance Tax Law may be secured from the State Treasurer.

3. State taxing officials

State Tax Commissioner, Wilmington, Delaware.

4. Income tax

(a) In general

A personal income tax law was approved by the Governor March 29, 1921, and the first returns thereunder were required between January 1, and March 15, 1922, for the year 1921. The act in its principal features is similar to the federal income tax law; departures therefrom are noted below.

(b) Who must make returns

Every "taxable" must make a return, whether they have or have not any net income; and they must pay a filing fee of \$3, whether any tax is payable or not, and in addition to the tax, if any is due. The word "taxable" means a natural person twenty-one years of age or over, who is a citizen or a resident of the state of Delaware. Also every minor with a net income of \$1,000 or more. A "resident" is any person who shall at any time during the last six months of the calendar year be a resident of the state. The law (article 1, § 6) provides for exemption of certain persons as follows: "Provided, that in the case of women receiving mothers' pensions, inmates of almshouses and other charitable institutions, persons receiving outside support from trustees of the poor and persons who, because of age, infirmity or mental disability, are wholly dependent for support, no return need be made under this act and no tax shall be paid."

(c) Rate

One per cent. of the amount of net income (after deductions and exemptions have been made) not in excess of \$3,000; 2 per cent. of the amount of net income in excess of \$3,000,

but not in excess of \$10,000; 3 per cent. of the amount of net income in excess of \$10,000.

(d) Exemptions

Personal exemption.—"In the case of a single person, a personal exemption of one thousand dollars, or in the case of the head of a family or a married person living with husband or wife, a personal exemption of two thousand dollars: Provided, however, that husband and wife living together shall receive but one personal exemption of two thousand dollars against their aggregate net income." Article 1, § 3. It will be noted that no exemption is allowed for dependents, as provided in the federal income tax law.

Exempt income.—"The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon the surrender of the contract; the value of property acquired by gift, bequest, devise or descent; interest upon the obligations of the state of Delaware or any political subdivision thereof or upon the obligations of the District of Columbia, the United States or its possessions; also any amounts paid to the injured employees or the dependents of deceased employees under the terms of the Delaware Workmen's Compensation Law of 1917." Article 1, § 3. It will be noted that, unlike the federal income tax law, all income from United States is exempt, and that income from bonds issued by states other than Delaware or by subdivisions of such states is not exempt.

(e) Net income

The aggregate of all gains, profits, salaries, wages, compensation for personal service of whatever kind and in whatever form paid; income derived from professions, vocations, business, trade, commerce, sales, or dealings in real or personal property, growing out of the ownership or use of or interest in such property; also from interest, dividends, securities or the transaction of any business carried on for gain or profits and income derived and actually received into possession by a taxable from any source whatever; also the share of the profits of any taxable in a copartnership, whether such profits have been divided or otherwise, less the aggregate of the deductions provided for in section 4 of the law.

(f) Deductions

Necessary *expenses* actually paid by the taxable in carrying on any business or trade, not including personal, living or family expenses.

All interest paid by the taxable within the year on his indebtedness.

Taxes, except income taxes, paid or accrued within the income year, imposed by the authority of the United States government, or under the authority of any state, county, school district, or other taxing subdivision of any state, or by the District of Columbia, except also taxes imposed by this law, and taxes assessed for local benefits of a kind tending to increase the value of the property assessed.

Losses sustained during the income year and not compensated for by insurance or otherwise, if incurred in connection with the trade or business: Provided, however, that losses sustained in the purchase and sale or ownership of stocks, bonds, or other securities shall be allowed only to the extent of *gains* or *income* from such transactions or ownership.

Debts ascertained to be worthless and charged off within the income year, if the amount has previously been included in gross income in a return under this law.

Depreciation. A reasonable allowance for the exhaustion, wear, and tear of property, arising out of its use or employment in the trade or business of the taxable.

(g) Filing returns, paying taxes, etc.

Returns are due on or before March 15th. Extension may be secured upon determination of Tax Department that good cause exists therefor. Tax must be paid at same time return is filed.

Penalties

Understatement or failure to file return subjects taxable to doubling tax and addition of interest.

5. General property tax

Although the state has apparently not surrendered formally its right to use this tax, it is not used at present, but it is used by the counties and municipalities.

(a) Base

All real and personal property not specifically exempt is subject to taxation. Ground rents are included. Many important classes of personal property are exempt.

(b) Exemptions.

(1) In addition to public property, are:

The property of churches, religious societies, colleges and charitable corporations; provisions necessary for the use and consumption of the owner and his family for one year (not including live stock); farming utensils; the working tools of mechanics or manufacturers, etc.

(2) Shares of stock in domestic corporations, which are

owned by persons or corporations without the state, are by the Constitution exempt from taxation. Constitution, art. 9.

(c) Assessment

The assessment is made by the local or "hundred" assessors on information, but they may require statements from the owner of property. Fraudulent returns are subject to a penalty of \$40, and refusal to make returns to a penalty of \$10 and the doubling of the assessment. Evasion after assessment is punishable by a fine of \$30 and a doubling of the assessment. The assessment of real estate outside of Wilmington is made every fourth year, but the district assessors each year revise the same. In Wilmington there is an annual assessment of both real and personal property. Personal property throughout the state is assessed annually. The assessment must be completed by January 1st.

(d) Rate

The levy court shall annually calculate and settle the amount of the road tax, the poor tax, and the county tax, and apportion the same among the hundreds at a certain rate per \$100 of assessments. The road tax is payable in money only and cannot be commuted.

(e) Collection

Taxes are collected by the collectors in each hundred, under warrant of the levy court. They are payable on demand after the second Tuesday in October, and, if not paid within ten days after demand, may be collected by distress and sale of personal property. If the amount of personal property is not sufficient, they revert on real estate and tenements, and, if that fails, the individual may be imprisoned. On all taxes paid before the 1st day of October there is an abatement of 5 per cent.; before December 1st, 3 per cent. On all taxes

unpaid on the 1st day of January, 5 per cent. penalty is added. The collector may recover taxes in an action of debt.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the state, real and personal, and every estate and interest therein, whether belonging to residents or nonresidents of the state (except shares of the capital stock of corporations created under the laws of the state, when owned by persons without the state), which passes by will, or by the intestate laws of the state, or by deed, grant, gift, or settlement (except in cases of a bona fide purchase for full consideration in money or money's worth), made in contemplation of, or intended to take effect in possession or enjoyment after, the death of the grantor, donor, or settlor, to any person or persons, bodies politic or corporate, in trust or otherwise, is subject to taxation as follows:

Property passing to parent, grandparent, husband, wife, child by birth, wife of son, husband of daughter, adopted child, or lineal descendant, at rates ranging from 1 per cent. on amount over \$3,000 to \$25,000 to 4 per cent. on amount over \$200,000. Brother, either of whole or half blood, sister, either of whole or half blood, or lineal descendant of brother or sister, at rates ranging from 2 per cent. on amount over \$1,000 to \$25,000 to 5 per cent. on amount over \$200,000.

Any other person at the rate ranging from 5 per cent. to 8 per cent., varying according to amounts from \$25,000 to over \$200,000. There is no exemption for this class.

If for charitable, educational, historical, religious, or municipal purposes, the entire transfer exempt. The property of nonresidents within the state, other than shares of stock in Delaware corporations, is subject to the same rate of tax as property of residents.

(b) Officials in charge of administration and collection

Register of Wills of New Castle County, Wilmington, Delaware; State Treasurer, also the Attorney General, Dover, Delaware.

(c) When inheritance taxes are due—Discount and penalties

Due within 13 months from granting of letters to representatives of the estate. No discount for prompt payment and no penalties for delayed payment are provided.

9. Domestic corporation taxes**(a) In general**

Corporations are subject to general property taxes above and to organization and annual franchise taxes.

(b) Organization taxes

Are limited to filing and recording fees: Ten cents for each \$1,000 of the total capital stock authorized up to \$2,000,000; 5 cents for each \$1,000 of the total capital stock authorized above \$2,000,000; in no case less than \$10. Filing fee to Secretary of State, \$2.

(c) Franchise taxes

Annual franchise tax based on authorized capital stock:

| | |
|--------------------------------------------------|---------|
| Capitalization not exceeding \$25,000..... | \$ 5.00 |
| Capitalization not exceeding \$100,000..... | 10.00 |
| Capitalization not exceeding \$300,000..... | 20.00 |
| Capitalization not exceeding \$500,000..... | 25.00 |
| Capitalization not exceeding \$1,000,000..... | 50.00 |
| For each additional million or part thereof..... | 25.00 |

In pursuance with the provisions of an act of 1921, corporations having a part of their capital invested in business in the state of Delaware pay a franchise tax on the propor-

tion of their capital so employed. Corporations, however, which have no capital invested in Delaware, pay no tax. The maintenance of a principal office in Delaware is not construed as employing capital within the state.

Telegraph, telephone, cable, express companies, gas and electric light companies, heat and power companies, parlor, palace or sleeping car companies, and pipe line companies are taxed upon their business in Delaware.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance fees and general taxes; also a reciprocal provision for annual fees and taxes is provided, as noted below.

(b) Entrance fees and taxes

State tax, \$10; fees to Secretary of State and prothonotaries, \$10.

(c) Annual fees or taxes

When, by the laws of any other state or nation, any other or greater taxes, fines, penalties, licenses, fees, or other obligations or requirements are imposed upon corporations of this state doing business in such other state or nation, or upon their agents therein, than the laws of this state impose upon their corporations or agents doing business in this state, so long as such laws continue in force in such foreign state or nation, the same taxes, fines, penalties, licenses, fees, obligations, and requirements, of whatever kind, as shall be imposed upon all corporations of such other state or nation doing business within this state upon their agents here: Provided, that nothing herein shall be held to repeal any duty, condition, or requirement now imposed by law upon such corporations of other states or nations transacting business in this state.

DISTRICT OF COLUMBIA

(Revised to May 15, 1922)

1. General features of tax system

The District of Columbia is a federal municipal corporation over which the Congress of the United States has supreme legislative control. The executive power is vested in a board of three commissioners, appointed by the President of the United States. Congress has granted to this board power to adopt local police, health, building, and other regulations. The District derives its revenue from the general property and special corporation taxes, an elaborate system of privilege taxes on various occupations, and also from appropriations by Congress from money of the United States, under Act of June 11, 1878 (20 Stat. 104): To the extent to which Congress shall appropriate the amount of 50 per cent. thereof; and the remaining 50 per cent. of such approved estimates shall be levied and assessed upon the taxable property in the District of Columbia.

2. Where pamphlet copies of tax laws may be secured

Tax laws are included in acts of Congress, some of which may be secured from Superintendent of Public Documents, Washington, D. C.

3. District taxing officials

Assessor of the District, Washington, D. C.

4. Income tax

There is no income tax in the District of Columbia.

5. General property tax

(a) Base

Not less than two-thirds of true value, averages about 70 per cent.

Property, real and tangible personal, is subject to taxation, except as specially exempted. There is no definition of real and personal property for purposes of taxation.

Real, two-thirds of true value.

Tangible, full value.

Intangible, full value, three-tenths of 1 per cent.

(b) Exemptions

Exemptions, in addition to public property, are:

Churches; institutions of public charity; public libraries; property used for educational purposes, not for public gain; cemeteries; real and personal property of foreign governments; the Corcoran Art Building; the Soldiers' Home and grounds actually occupied by such buildings; personal property of all library, benevolent, charitable, and scientific institutions, not conducted for private gain; libraries, school-books, wearing apparel, family portraits, household and other belongings up to \$1,000; also all household effects of persons in public service which are taxed elsewhere. There are also a number of special acts of Congress exempting certain property from taxation.

(c) Assessment

Real estate is assessed by Act Sept. 1, 1916, triennially, at not less than two-thirds of its true value by the assessors of real estate in the name of the owner or trustee of owner thereof. The assessment is to be completed on or before the first Monday of January of each second year and return of the same made to the assessor. Annually the board of real es-

tate assessors add all new property subject to taxation, also improvements of \$500 or over, and deducts from the assessment any property damaged or destroyed. The law provides for the numbering of squares and lots for the purpose of assessment and taxation, and imposes upon the commissioners the duty of making such record. Personal property is assessed annually by the board of personal tax appraisers at its fair cash value. Every person or corporation is required to fill out, under oath, a schedule of personal property. Failure to make returns results in a penalty of 20 per cent. of the assessed valuation. Dealers in general merchandise are assessed on the average stock in trade during the year, and hotel companies and proprietors of hotels on the value of their furniture.

(d) Rate

1½ to 2 per cent. Intangible personal property, three-tenths of 1 per cent.

(e) Collection

Taxes are collected by the collector, after receiving from the assessor the statement of the amount to be collected. All taxes are payable in May of each year, but one-half of the real estate tax may be paid in November. The penalty for delinquency, 1 per cent. a month, begins to accrue June 1. Real estate is sold for delinquent taxes under direction of the commissioners. Taxes on personalty unpaid June 1 may be collected by distraint and sale, and also by levy on real property, if goods and chattels are lacking.

7. Inheritance taxes

There is no inheritance tax in the District of Columbia.

9. Domestic corporation taxes

(a) In general

Corporations are subject to an organization tax only. No annual franchise tax is imposed.

(b) Organization taxes

Fees to recorder of deeds: Organization tax, 40 cents on each \$1,000; minimum, \$25. Recording certificate of incorporation, about \$3.

(c) Other corporate taxes

Bonding and title companies, at $1\frac{1}{2}$ per cent. on their gross receipts. Building and loan associations, at 2 per cent. on their gross earnings. Incorporated savings banks, at 4 per cent. on their gross earnings, less interest paid to depositors. Electric-light companies, at 4 per cent. on their gross earnings. Telephone companies, at 4 per cent. on their gross earnings. Gaslight companies, at 5 per cent. on their gross earnings. Georgetown Barge, Dock, Elevator & Railway Company, at 5 per cent. on the gross earnings. National banks, at 6 per cent. on their gross earnings. Trust companies, at 6 per cent. on their gross earnings. Washington Market Company, at 4 per cent. on the gross earnings from conduits. Street railway companies, at 4 per cent. on their gross receipts.

10. Foreign corporation taxes

No formalities are required upon entering the District to do business, and no taxes are imposed.

Individuals, copartners, and corporations entering the District of Columbia to establish a mercantile business, first make affidavit to the assessor of the value of their stock in trade, and pay taxes thereon until close of current year, thereafter they pay on the average value of stock in trade, fixtures, and equipment, annually.

FEDERAL

1. General features of tax system

The federal government derives its revenue from: (1) Customs or import duties, commonly known as the tariff; (2) income taxes, individual and corporate; (3) estate taxes; (4) capital stock tax on corporations; (5) stamp taxes; (6) taxes upon telegraph, telephone, cable, and radio dispatches; (7) taxes on admissions and dues; (8) various excise taxes on certain articles, or luxuries, works of art and jewelry; (9) occupational taxes on brokers, theaters, etc.; (10) taxes on the use of boats, etc.—all of which are hereinafter summarized. In addition, taxes are imposed on oleomargarine, cigars and tobacco, beverages, narcotics, etc. The child labor tax has been declared to be unconstitutional by the United States Supreme Court in *Bailey v. Drexel Furniture Co.* (May 15, 1922) 257 U. S. —, 42 Sup. Ct. 449, 66 L. Ed. —.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of tax laws, department regulations, decisions, etc., may be secured (upon payment of nominal fees, from 5 cents each up) from the Superintendent of Public Documents, Washington, D. C., who issues a list of numerous government publications on "Tariff and Taxation," giving prices. The list may be obtained upon request and without charge. References herein to the Income Tax Service and the War Tax Service, issued by the Corporation Trust Company of New York, are, respectively, to 1922 editions of these works.

Pamphlet copies of federal income tax laws may be secured on request from many banks, trust companies, and brokerage.

houses. Extracts from the laws and regulations relating to taxes on reorganizations, mergers and consolidations may be secured on request from the Corporation Trust Company, 37 Wall street, New York City.

3. Tax officials

The taxation system of the federal government is under the jurisdiction of the Treasury Department, Washington, D. C.

(a) The administration of the tariff is directly under the Secretary of the Treasury and one of his Assistant Secretaries. The country is divided into customs districts, with various ports of entry, each with an administrative staff, which in the important ports consist of a collector, appraiser, surveyor, gaugers, inspectors, and naval officers. A board of general appraisers may be applied to in matters of valuation. The United States Court of Customs Appeals determines appeals on questions of classification and like matters.

(b) The administration of the other taxes is likewise under the Secretary of the Treasury. Directly under him come the Commissioner of Internal Revenue, to whom are answerable collectors and deputy collectors of internal revenue in various districts of the United States. For names and addresses of collectors, see Corporation Trust Company Income Tax Service. Revenue agents and inspectors are also employed, and the Commissioner is assisted in the interpretation of the law and regulations by a "Committee on Appeals and Review." A "tax simplification board" was established by the Revenue Act of 1921, to investigate the procedure and forms and to make recommendations for their simplification.

4. The tariff or customs duties

The present law is known as the "Tariff Act of 1922." It went in effect at 12:01 a. m. September 22, 1922. The law prescribes the exact methods of entry of goods, their valuation, their classification, and the rate of duty to be paid in each case. All imported articles must follow the prescribed routine, beginning with a certificate of value made before a United States consul in the foreign country, and ending with a receipt for the duties paid in this country.

5. Income tax

Individuals are subject to a *normal tax* of 4 per cent. upon the first \$4,000 of net income, to a *normal tax* of 8 per cent. upon the excess over that amount, and to a *surtax* for 1922 and years subsequent thereto upon net incomes of over \$6,000, beginning at 1 per cent. and increasing, as the income increases, to 50 per cent., as shown in the table below. Citizens of the United States are subject to this tax, whether they own assets and receive income from the United States or not. Every resident alien is liable to the tax, even though his income is wholly from sources outside the United States. Every nonresident alien individual is liable to the tax on his income from within the United States. Article 3, Reg. 62, par. 746, Corporation Income Tax Service.

Individual income tax table.—Explanation: The table below shows the total income tax, under the Revenue Act of 1921, payable for the years 1922 and subsequent thereto by a United States citizen, the head of a family, or a married person living with husband or wife, and with no other dependents. Nonresident alien individuals are not entitled to the reduced rate of 4 per cent. on the first \$4,000, but must pay 8 per cent. on the entire net income.

SYNOPSIS OF TAX SYSTEMS

| Net Income. | Rate of Normal Tax. | Rate of Surtax. | Amount of Normal Tax. | Amount of Surtax. | Total Tax. Columns D and E |
|------------------------|------------------------|--------------------|--------------------------|----------------------|-------------------------------|
| A | B | C | D | E | F |
| \$3,000 | 4% | .... | \$20 | .... | \$20 |
| 4,000 | 4% | .... | 60 | .... | 60 |
| 5,000 | 4% | .... | 100 | .... | 100 |
| 6,000 | 4% | .... | 160 | .... | 160 |
| 8,000 | 8% | 1% | 320 | \$20 | 340 |
| 10,000 | 8% | 1% | 480 | 40 | 520 |
| 12,000 | 8% | 2% | 640 | 80 | 720 |
| 14,000 | 8% | 3% | 800 | 140 | 940 |
| 16,000 | 8% | 4% | 960 | 220 | 1,180 |
| 18,000 | 8% | 5% | 1,120 | 320 | 1,440 |
| 20,000 | 8% | 6% | 1,280 | 440 | 1,720 |
| 22,000 | 8% | 8% | 1,440 | 600 | 2,040 |
| 24,000 | 8% | 9% | 1,600 | 780 | 2,380 |
| 26,000 | 8% | 10% | 1,760 | 980 | 2,740 |
| 28,000 | 8% | 11% | 1,920 | 1,200 | 3,120 |
| 30,000 | 8% | 12% | 2,080 | 1,440 | 3,520 |
| 32,000 | 8% | 13% | 2,240 | 1,700 | 3,940 |
| 34,000 | 8% | 15% | 2,400 | 2,000 | 4,400 |
| 36,000 | 8% | 15% | 2,560 | 2,300 | 4,860 |
| 38,000 | 8% | 16% | 2,720 | 2,620 | 5,340 |
| 40,000 | 8% | 17% | 2,880 | 2,960 | 5,840 |
| 42,000 | 8% | 18% | 3,040 | 3,320 | 6,360 |
| 44,000 | 8% | 19% | 3,200 | 3,700 | 6,900 |
| 46,000 | 8% | 20% | 3,360 | 4,100 | 7,460 |
| 48,000 | 8% | 21% | 3,520 | 4,520 | 8,040 |
| 50,000 | 8% | 22% | 3,680 | 4,960 | 8,640 |
| 52,000 | 8% | 23% | 3,840 | 5,420 | 9,260 |
| 54,000 | 8% | 24% | 4,000 | 5,900 | 9,900 |
| 56,000 | 8% | 25% | 4,160 | 6,400 | 10,560 |
| 58,000 | 8% | 26% | 4,320 | 6,920 | 11,240 |
| 60,000 | 8% | 27% | 4,480 | 7,460 | 11,940 |
| 62,000 | 8% | 28% | 4,640 | 8,020 | 12,660 |
| 64,000 | 8% | 29% | 4,800 | 8,600 | 13,400 |
| 66,000 | 8% | 30% | 4,960 | 9,200 | 14,160 |
| 68,000 | 8% | 31% | 5,120 | 9,820 | 14,940 |
| 70,000 | 8% | 32% | 5,280 | 10,460 | 15,740 |
| 72,000 | 8% | 33% | 5,440 | 11,120 | 16,560 |
| 74,000 | 8% | 34% | 5,600 | 11,800 | 17,400 |
| 76,000 | 8% | 35% | 5,760 | 12,500 | 18,260 |
| 78,000 | 8% | 36% | 5,920 | 13,220 | 19,140 |
| 80,000 | 8% | 37% | 6,080 | 13,960 | 20,040 |
| 82,000 | 8% | 38% | 6,240 | 14,720 | 20,960 |
| 84,000 | 8% | 39% | 6,400 | 15,500 | 21,900 |
| 86,000 | 8% | 40% | 6,560 | 16,300 | 22,860 |
| 88,000 | 8% | 41% | 6,720 | 17,120 | 23,840 |
| 90,000 | 8% | 42% | 6,880 | 17,960 | 24,840 |
| 92,000 | 8% | 43% | 7,040 | 18,820 | 25,860 |
| 94,000 | 8% | 44% | 7,200 | 19,700 | 26,900 |
| 96,000 | 8% | 45% | 7,360 | 20,600 | 27,960 |
| 98,000 | 8% | 46% | 7,520 | 21,520 | 29,040 |
| 100,000 | 8% | 47% | 7,680 | 22,460 | 30,140 |
| 150,000 | 8% | 48% | 11,680 | 46,460 | 58,140 |
| 200,000 | 8% | 49% | 15,680 | 70,960 | 86,640 |
| 300,000 | 8% | 50% | 23,680 | 120,960 | 144,640 |
| 500,000 | 8% | 50% | 39,680 | 220,960 | 260,640 |
| 1,000,000 | 8% | 50% | 79,680 | 470,960 | 550,640 |
| more than 1,000,000 | 8% | 50% | | | |

Taxable income—Gross income

I. Citizens or residents

Gross income (section 213 [a]) means gains, profits, and income (in whatever form paid) derived from all sources including:

1. Salaries, wages, and all compensation for personal or professional services;
2. Trades, businesses, commerce, and sales or dealings in property;
3. Rents;
4. Royalties;
5. Interest;
6. Dividends; and
7. The distributable share of income from partnerships and trust estates, whether or not distributed. Sections 218 (a) and 219 (b).

But *does not* include the following *exemptions*:

1. Proceeds of life insurance policies paid upon the death of the insured. Section 213 (b) (1).
2. Amounts received by insured as a return of premium upon life insurance, endowment or annuity contracts. Section 213 (b) (2).
3. Amounts received from accident or health insurance, and for damages on account of personal injuries or sickness. Section 213 (b) (6).
4. Property acquired by gift, bequest, devise, or descent. But the income therefrom must be included in gross income. Section 213 (b) (3).
5. Interest on obligations of a state, territory, or any political subdivision thereof, or the District of Columbia, on securities issued under the Federal Farm Loan Act, bonds issued by the War Finance Corporation, and on all obligations

of the United States or its possessions. However, in the case of obligations of the United States issued after September 1, 1917 (other than $3\frac{3}{4}$ per cent. Victory notes and postal savings certificates of deposit), and of bonds of the War Finance Corporation, the interest therefrom must be included in gross income, if, by the terms of the acts authorizing the issue thereof, or section 1328 of this act, such interest in the hands of any particular taxpayer is not wholly exempt from income tax. Section 213 (b) (4).

6. Certain amounts received from the United States under the provisions of the War Risk Insurance and Vocational Rehabilitation Acts, or as pensions. Section 213 (b) (9).

7. So much of the amount received after December 31, 1921, and before January 1, 1927, as dividends or interest from certain domestic building and loan associations, as does not exceed \$300. Section 213 (b) (10).

8. The rental value of a dwelling furnished to a minister of the gospel as part of his compensation. Section 213 (b), (11).

9. The amount of tax paid on behalf of the taxpayer by a debtor corporation on interest from so-called "tax-free covenant" bonds. Section 234 (a) (3).

II. Nonresident aliens

Gross income from sources within the United States includes (section 213 [c] and section 217 [a]):

1. Interest on all obligations of residents, corporate or otherwise, excluding:

(a) Interest on bank deposits paid to persons not engaged in business within the United States, and having no office or place of business therein; and

(b) Interest received from a resident alien individual or a

resident foreign corporation, less than 20 per cent. of whose gross income is derived from sources within the United States, as provided in section 217 (a) (1).

2. Dividends from a domestic corporation (other than a corporation entitled to the benefits of section 262, by reason of income derived from possessions of the United States).

3. Dividends from a foreign corporation, more than 50 per cent. of whose gross income is derived from sources within the United States, as provided in section 217 (a) (2).

4. Compensation for services rendered within the United States.

5. Rents or royalties from property located or used in the United States.

6. Profits from the sale of real property located in the United States.

7. Profits from the sale of personal property purchased or produced and sold within the United States. Section 217 (e).

8. Profits from sale of personal property purchased without and sold within the United States.

9. A proportionate part of the profit from the sale of personal property produced by the taxpayer in whole or in part within and sold without the United States, or produced by the taxpayer in whole or in part without and sold within the United States.

10. All other income from sources within the United States, as provided in section 217 (e).

But *does not* include:

1. Income of the nature excluded in the case of citizens;

2. Income excluded by the provisions of section 217 (c) and a proportionate part of certain income described in section 217 (e); and

3. Income consisting of earnings derived from the operation of ships documented under the laws of a foreign country which grants a similar exemption to United States citizens and corporations. Section 213 (b) (8).

Deductions from gross income

I. In the case of citizens or residents

In computing *net income*, there may be deducted from gross income the following items (sections 212 and 214):

1. Necessary expenses paid or incurred during the year in carrying on a business. Section 214 (a) (1).

2. All interest paid on indebtedness, other than indebtedness incurred to purchase obligations, the interest upon which is wholly tax exempt in the hands of any particular taxpayer. However, interest paid on indebtedness incurred to purchase obligations of the United States, issued after September 24, 1917 (and originally subscribed for by the taxpayer), may be deducted, whether or not the interest from such obligations is wholly tax exempt. Section 214 (a) (2).

3. All domestic and foreign taxes except (section 214 [a] [3]):

(a) Federal income, war-profits and excess-profits taxes;

(b) Other income, war-profits and excess-profits taxes allowed as a credit;

(c) Taxes assessed against local benefits; and

(d) Taxes imposed upon a taxpayer's interest in a corporation, which are paid by the corporation without reimbursement (such as taxes paid by National Banks on behalf of its stockholders).

4. All losses not compensated for by insurance incurred in transactions entered into for profit, whether or not connected with a trade or business, and any loss not compensated for by

insurance, if arising from fires or other casualty, or from theft. Section 214 (a) (4) (5) (6). But, with certain exceptions, losses from sales of securities are not deductible, if within 30 days before or after sale substantially identical property is acquired. See section 214 (a) (5).

5. Debts ascertained to be worthless and charged off during taxable year. With the approval of the Commissioner, debts may be charged off in part, or reserves may be set up and charged off. Section 214 (a) (7).

6. A reasonable allowance for depreciation or obsolescence of property used in a trade or business. Section 214 (a) (8).

7. A reasonable amount for the amortization of certain property acquired after April 6, 1917, and used for war purposes, provided claim therefor is made on returns for the taxable years 1918, 1919, 1920 or 1921. Section 214 (a) (9).

8. A reasonable amount for depletion, such as the withdrawal of oil from wells, mineral from mines, etc. Section 214 (a) (10).

9. Contributions for certain religious, charitable, scientific, educational or public purposes, etc., not, however, to exceed 15 per cent. of the taxpayer's net income before deducting such contributions. Section 214 (a) (11).

10. All or a part of the gain derived through compulsory or involuntary conversion of property, where the property is replaced or a replacement fund is established. Section 214 (a) (12).

II. Nonresident aliens

The following deductions are allowed, but only to the extent that such deductions apply to income derived from sources within the United States, and only upon filing a return of total income from such sources (section 214 [a] and [b]; section 217 [g]):

1. Necessary expenses, interest on indebtedness, taxes, losses sustained during the taxable year and not compensated for by insurance or otherwise, incurred in trade or business, worthless debts, allowances for depreciation or obsolescence, amortization, and depletion, and all or a part of the gain derived through compulsory conversion of property, all as explained in subdivision I above, paragraphs 1, 2, 3, 4 in part, 5, 6, 7, 8, and 10. Section 214 (a) (1), (2), (3), (4), (7), (8), (9), (10), and (12).

2. Losses not compensated for by insurance, if incurred in a transaction entered into for profit, though not connected with business, but only if and to the extent that the profit, if the transaction had resulted in a profit, would be taxable. Losses sustained in the sale of securities are explained in subdivision I, paragraph 4, above. Section 214 (a) (5).

3. Losses, arising from casualty or theft, not compensated for by insurance and not connected with the taxpayer's business, of property situated within the United States. Section 214 (a) (6).

4. Contributions made to *domestic* corporations (presumably only those to which citizens may make deductible contributions), or to community chests, funds or foundations created in the United States, or to the fund authorized by the Vocational Rehabilitation Act. Section 214 (a) (11).

III. No deduction is allowed in any case, whether of citizens, residents, or nonresident aliens (section 215), in respect of—

(a) 1. Personal living or family expenses;

2. Capital expenditures, such as amounts paid for new buildings, permanent improvements, or to restore capital assets, against which an allowance for depreciation has been taken;
or

3. Premiums paid on life insurance policies covering the lives of persons employed or financially interested in any trade or business carried on by the taxpayer, when such taxpayer is a beneficiary under the policy.

(b) Where income is paid by a trustee to a life beneficiary (or to a beneficiary for a term of years) of property acquired by gift, bequest, or inheritance, the beneficiary may not deduct from such income, either as depreciation or otherwise, any amount due to loss in value of his life estate (or estate for a term of years) by reason of the approach of the time when, either by death or other termination, the entire value will be lost.

If a trustee, in determining net income distributable to a beneficiary, could under the income tax law deduct from gross income any item such as, for example, depreciation of income producing property before making payment to the beneficiary, but if the laws of the jurisdiction governing the administration of the trust property require the income to be paid without making such deduction, then for tax purposes the beneficiary may not deduct any amount from the income received from the trustee on account thereof.

Credits

I. Upon net income (section 216)

For the purpose of computing the normal tax only, there shall be allowed, in addition to the deductions, the following credits:

1. Dividends received from domestic corporations other than certain domestic corporations receiving income from sources within the possessions of the United States and taxable under section 262 of the law, or from foreign corporations deriving more than 50 per cent. of their gross income

from sources within the United States during the period specified in section 216 (a).

2. Any amount of interest upon obligations of the United States and bonds issued by the War Finance Corporation included in gross income. Section 216 (b).

3. \$1,000 in case of a single person, or \$2,500 in case of the head of a family or a married person living with husband or wife, unless the aggregate net income of husband and wife is in excess of \$5,000, in which case the personal exemption shall be \$2,000. If married persons file separate returns, the personal exemption may be divided in the proportion desired. Section 216 (c).

Where the exemption is limited to \$2,000, reduction of the personal exemption from \$2,500 to \$2,000 shall not operate to increase the tax which would be payable, if the exemption were \$2,500, by more than the amount of the net income in excess of \$5,000.

4. \$400 for each dependent (other than husband or wife) under eighteen years of age, or incapable of self-support because mentally or physically defective. Section 216 (d).

5. See section 216 (f) regarding the date on which the taxpayer's status is determined for credit purposes.

6. In the case of income received from partnerships and fiduciaries the taxpayer is entitled to the credits allowed above on items 1 and 2 on his proportionate share of such items. Section 218 (b); section 219 (d) and (f).

7. In the case of a nonresident alien individual or a citizen deriving income from sources within the possessions of the United States and entitled to the benefits of section 262, the personal exemption is only \$1,000, and such person is not entitled to the \$400 credit for each dependent. Such persons can receive the benefit of credits only by filing a return of

total income from sources within the United States. The benefit of the personal exemption may be received by filing a claim therefor with the withholding agent, if so permitted by regulations made by the Commissioner of Internal Revenue. Section 217 (g); section 216 (e).

II. Upon taxes

1. All income, or excess or war profits taxes, paid by citizens or alien residents to any foreign country, or to possessions of the United States, except that, in the case of taxes paid by alien residents to any foreign country, such credit is allowed only if the laws of the taxpayer's country in imposing such taxes allow a similar credit to citizens of the United States resident in such country. Section 222 (a).

Citizens entitled to the benefits of section 262 by reason of income derived from possessions of the United States, are not entitled to these credits. Section 262.

Individuals entitled to these credits, and deriving income from sources both within and without the United States, are required to prorate the credits, as provided in section 222 (a) (5).

2. All tax withheld at the source. Section 221 (d).

3. In the case of income received from partnerships or fiduciaries, the taxpayer is entitled to his proportionate share of the preceding credits. Section 222 (a).

Interest on Liberty bonds, etc.

Obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit and 3¾ per cent. Victory notes), and bonds of the War Finance Corporation are exempt *only* to the extent provided in the acts authorizing the issuance thereof, as amended and supplemented, and the interest therefrom may be excluded in the compu-

tation of gross income only to the extent it is wholly exempt from taxation in the hands of the taxpayer. Section 213 (a) (4).

The income tax status of interest from such *partly tax-exempt* obligations of the United States as modified by section 1328 of this act, may be briefly stated as follows:

All such interest is free of normal tax.

Interest derived from the following principal amounts is exempt from all income and profits taxes during the periods specified:

- \$ 5,000 4's and $4\frac{1}{4}$'s during life of the bonds.
- 30,000 First converted $4\frac{1}{4}$'s dated October 24, 1918, obtained through conversion of First $3\frac{1}{2}$'s under terms of fourth loan, exempt until July 2, 1923.
- 75,000 4's and $4\frac{1}{4}$'s exempt until July 2, 1923.
- 50,000 4's and $4\frac{1}{4}$'s exempt until July 2, 1926.

\$160,000 Total face value of bonds.

Interest on (a) the obligations of a state, territory, political subdivision thereof, or the District of Columbia. (b) Securities issued under the Federal Farm Loan Act. (c) Obligations of the United States or its possessions issued prior to September 1, 1917 (including Liberty Loan $3\frac{1}{2}$ per cent. bonds), and $3\frac{3}{4}$ per cent. Victory notes are exempt from all income and profits taxes. Section 213 (a) (4).

The Victory Liberty Loan Act provides that interest received on and after March 3, 1919, on bonds, notes, and certificates of indebtedness of the United States and bonds of the War Finance Corporation, while beneficially owned by a non-resident alien individual or a foreign corporation, partnership,

or association, not engaged in business in the United States, is exempt from all income and profits taxes. Section 223.

Returns

For taxation

Every individual having for the taxable year a net income of \$1,000 or more, or gross income of \$5,000 or more, or net income of \$2,000 or more if married and living with husband or wife, or husband and wife living together and having an aggregate net income of \$2,000 or more, or an aggregate gross income of \$5,000 or more, shall annually file a return of income. Married persons living together may make separate or joint returns as they may desire.

If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of the taxpayer.

The returns of citizens and residents must be filed on or before the 15th of March, or on or before the 15th of the third month following the close of the fiscal year, if returns are made on a fiscal year basis. Returns should be filed in the office of the collector of internal revenue for the district in which is located the legal residence or principal place of business of the taxpayer; but, if such taxpayer has no legal residence or place of business in the United States, the return must be filed in the office of the collector of internal revenue at Baltimore, Md.

The returns of nonresident aliens must be filed in the office of the collector of internal revenue at Baltimore, Md., on or before June 15th.

For good cause the Commissioner may grant a reasonable extension of time for filing returns. Section 227.

Of information

All persons making payments of interest, rent, salaries, or other fixed or determinable income of \$1,000 or more in any taxable year, shall file returns in such form as may be required by the Commissioner of Internal Revenue. Individuals undertaking, as a matter of business, the collection of foreign items, are required to obtain a license and to make information returns, as explained under the section relating to corporations. Section 256; section 259.

Payment of tax

The tax is payable in four equal quarterly installments. The first installment is due when the return is required by law to be filed (on or before March 15th, or on the 15th day of the third month after the close of the fiscal year). Nonresident aliens file returns and pay taxes in accordance with the provisions of sections 227 and 250 (a). At the option of the taxpayer, the entire amount of tax due may be paid at the time of filing return. If an extension of time for filing a return is granted, a similar extension in the time the first installment of the tax is payable is allowed; but the time for the payment of the subsequent installments is not postponed, unless the Commissioner specifically so provides in granting the extension. However, if the extension is granted *at the request of the taxpayer*, interest at the rate of one-half of 1 per cent. per month is added from the time the installment would have been due, had no extension been granted, until paid. The entire tax becomes due and payable upon notice and demand by the collector, should there be a default upon any installment. Section 250 (e). Failure to pay the tax when due, or within ten days after notice and demand (the instructions printed on the return shall be deemed to be sufficient notice and demand by

the collector, as to the first installment) by the collector, renders the taxpayer liable to a penalty of 5 per cent., plus interest at the rate of 1 per cent. per month. Should a taxpayer understate the amount of tax due through negligence (without intent to defraud), there shall be added 5 per cent. of the total amount of the deficiency, plus interest at the rate of 1 per cent. per month. Section 250 (b). The penalties for fraudulent returns with intent to evade tax are severe. Section 250 (b) and section 253.

Estates and trusts

The normal and surtaxes applying to individuals shall apply to the income of estates or trusts (section 219 [a]), including:

1. Income received by estates of deceased persons during administration;
2. Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;
3. Income held for future distribution; and
4. Income to be distributed to beneficiaries periodically, whether or not at regular intervals, or held under court order for an infant.

In the case of items 1, 2, or 3 above, the estate or trust is treated as an entity and taxed as a single person, and the fiduciary is required to file a tax return (form 1040) for the estate, and to pay the tax, except that in the case of item 1 above, where income is paid or credited to a beneficiary, it may be deducted from the income of the estate or trust. Sections 219 (c) and 219 (b).

Where income is received by an estate or trust which, pursuant to the terms of the will or deed of trust, is set aside or paid out to corporations organized for religious, charitable,

scientific, or educational purposes, etc., or to the United States or any political subdivision thereof, such amounts may be deducted without the 15 per cent. limitation from the income of the estate or trust.

In the case of item 4 (and of item 1 where income is paid or credited to a beneficiary), the fiduciary is required to file a return of information (form 1041) showing the distributive share of each beneficiary, together with the amount, if any, accruing to the estate or trust covered by items 1, 2, or 3. The beneficiary shall include in his own return (form 1040) the amount of his distributive share shown in the fiduciary's return of information (form 1041). However, if the beneficiary is for legal reasons unable to file a return, it shall be filed by the fiduciary in behalf of the beneficiary. Section 219 (b); section 225.

Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return for any of the following individuals, estates, or trusts for which he acts—

1. Every individual having a net income of \$1,000 or over, if single, or if married and not living with husband or wife;
2. Every individual having a net income of \$2,000 or over, if married and living with husband or wife;
3. Every individual having a gross income of \$5,000 or over, regardless of the amount of his net income;
4. Every estate or trust the net income of which is \$1,000 or over; and
5. Every estate or trust of which any beneficiary is a non-resident alien.

When one of the beneficiaries is a nonresident alien, it is necessary to file a return for the entire estate or trust, showing the income payable to each beneficiary, regardless of amount,

and also file a return for the nonresident alien beneficiary, and pay the tax shown to be due thereon.

Partnerships

Partnerships, as such, are not subject to this tax, but each partner is required to include in his individual income tax return his share of the partnership profits, whether or not actually distributed. Section 218 (a).

However, partnerships are required to file an income tax return prepared upon the same basis as an individual return, except that gifts or contributions are not allowed as a deduction. Section 224; section 218 (c).

Partnerships undertaking as a matter of business the collection of foreign items are required to obtain a license from the Commissioner of Internal Revenue and to make such reports as may be required by the Commissioner. Sections 256 and 259. Partnerships acting as brokers shall, when required by the Commissioner of Internal Revenue, render a return showing the names of customers, with such details as to profits, losses, or other information as the Commissioner may require. Section 255.

All partnerships making payment to an individual, partnership, or corporation of interest, rent, wages, or other fixed or determinable income of \$1,000 or more in any taxable year, shall render such return as may be required by the Commissioner of Internal Revenue. Section 256.

Corporations

Taxable corporations

Domestic corporations.—Domestic corporations entitled to the benefits of section 262, by reason of income derived from sources within possessions of the United States, are taxed as foreign corporations. Every corporation, joint-stock com-

pany, or association organized in the United States (except exempt corporations—see section 231), must file a return, whether or not it has any income for the taxable year. Section 230; section 239.

Foreign corporations.—Every corporation, joint-stock company, or association (except exempt corporations—see section 231), incorporated under the laws of any foreign country, and engaged in business in the United States, or having a place of business therein, must file a return, whether or not it has any income for the taxable year. Section 233 (b).

Foreign corporations (except exempt corporations—see section 231), though *not* engaged in business in the United States, and having no place of business therein, but deriving any income from sources within the United States, must file a return.

Foreign corporations are taxable only on income derived from sources within the United States. Section 233 (b).

Income which has its origin abroad, although paid within the United States, does not render a foreign corporation, the recipient thereof, taxable thereon.

Insurance companies.—Taxation of insurance companies is too complicated for brief statement. The reader is referred to the Corporation Trust Company's Income Tax Service.

Taxable income—Gross income

I. Domestic corporations

Gross income means gains, profits, and income (in whatever form paid) derived from all sources, including:

1. Services.
2. Trades, businesses, commerce, and sales or dealings in property.
3. Rents.
4. Royalties.

5. Interest.

6. Dividends (the term "dividends" is defined in section 201).

But *does not* include:

1. Proceeds of life insurance policies paid upon the death of the insured. Section 213 (b) (1).

2. Property acquired by gift, bequest or devise, but the income therefrom must be included in gross income. Section 213 (b) (3).

3. Interest on obligations of a state, territory, or any political subdivision thereof, or the District of Columbia, on securities issued under the Federal Farm Loan Act, bonds issued by the War Finance Corporation, and all obligations of the United States or its possessions. Section 213 (b) (4).

4. Certain receipts of certain shipowners' associations. See section 213 (b) (12).

II. Foreign corporations

Gross income from sources within the United States (section 233 [b]; section 217 [a]) includes:

1. Interest on all obligations of residents, corporate or otherwise, excluding:

(a) Interest on bank deposits paid to corporations not engaged in business within the United States, and having no office or place of business therein; and

(b) Interest received from a resident alien individual or a resident foreign corporation, less than 20 per cent. of whose gross income is derived from sources within the United States, as provided in section 217 (a) (1).

2. Dividends from a domestic corporation (other than a corporation entitled to the benefits of section 262, by reason of income derived from possessions of the United States).

3. Dividends from a foreign corporation more than 50 per cent. of whose gross income is derived from sources within the United States, as provided in section 217 (a) (2).

4. Compensation for services rendered within the United States.

5. Rents or royalties from property located or used in the United States.

6. Profits from the sale of real property located in the United States.

7. Profits from the sale of personal property purchased or produced and sold within the United States. Section 217 (e).

8. Profits from sale of personal property purchased without and sold within the United States.

9. A proportionate part of the profit from the sale of personal property produced by the taxpayer in whole or in part within and sold without the United States, or produced by the taxpayer in whole or in part without and sold within the United States.

10. All other income from sources within the United States, as provided in section 217 (e).

But *does not* include:

(a) Income of the nature excluded in the case of domestic corporations.

(b) Income excluded by the provisions of section 217 (c) and a proportionate part of certain income described in section 217 (e).

(c) Income consisting of earnings derived from the operation of ships documented under the laws of a foreign country which grants a similar exemption to United States citizens and corporations. Section 213 (b) (8).

Deductions from gross income

I. Domestic corporations

See section 234 (b), limiting deductions allowed certain corporations deriving income from sources within the possessions of the United States.

In computing *net income*, there may be deducted from gross income the following items (section 232):

1. Necessary expenses paid or incurred during the year in carrying on a business. Section 234 (a) (1).

2. All interest paid on indebtedness other than indebtedness incurred to purchase obligations, the interest upon which is wholly tax exempt in the hands of any particular taxpayer. However, interest paid on indebtedness incurred to purchase obligations of the United States, issued after September 24, 1917 (and originally subscribed for by the taxpayer), may be deducted, whether or not the interest from such obligations is wholly tax exempt. Section 234 (a) (2).

3. All domestic and foreign taxes except (section 234 [a] [3]):

(a) Federal income, war-profits and excess-profits taxes;

(b) Other income, war-profits and excess-profits taxes allowed as a credit;

(c) Taxes assessed against local benefits.

4. All losses not compensated for by insurance or otherwise. Section 234 (a) (4).

But, with certain exceptions, losses from sales of securities are not deductible if within 30 days before or after sale, substantially identical property is acquired. See section 234 (a) (4).

5. Debts ascertained to be worthless and charged off during taxable year. With the approval of the Commissioner,

debts may be charged off in part or reserves may be set up and charged off. Section 234 (a) (5).

6. Dividends received from a domestic corporation (other than a corporation receiving income from sources within the possessions of the United States, and taxable under section 262), and certain foreign corporations. Section 234 (a) (6).

7. A reasonable allowance for depreciation or obsolescence of property used in a trade or business. Section 234 (a) (7).

8. A reasonable amount for the amortization of certain property acquired after April 6, 1917, and used for war purposes, provided claim therefor is made on returns for the taxable years 1918, 1919, 1920, or 1921. Section 234 (a) (8).

9. A reasonable amount for depletion, such as the withdrawal of oil from wells, mineral from mines, etc. Section 234 (a) (9).

10. All or a part of the gain derived through compulsory conversion of property, where the property is replaced or a replacement fund is established. Section 234 (a) (14).

II. Foreign corporations

The following deductions are allowed, but only to the extent that such deductions apply to income derived from sources within the United States, and only upon filing a return of total income from such sources (section 234 [b]; section 217 [g]):

Necessary expenses, interest on indebtedness, taxes, losses sustained during the taxable year and not compensated for by insurance or otherwise, worthless debts, allowances for depreciation, obsolescence, amortization, and depletion, and all or any part of the gain derived through compulsory conversion of property, where the property is replaced or a replacement

fund is established; all as explained in subdivision I above. Section 214 (a).

No deduction is allowed, to either a domestic or a foreign corporation (sections 215 and 235), in respect of—

1. Capital expenditures, such as amounts paid for new buildings, permanent improvements or to restore capital assets, against which an allowance for depreciation has been taken, or

2. Premiums paid on life insurance policies covering the lives of persons employed or financially interested in any trade or business carried on by the taxpayer when such taxpayer is a beneficiary under the policy.

3. Where income is paid by a trustee to the owner of a terminable interest, acquired by gift, bequest or inheritance the beneficiary may not deduct from such income, either as depreciation or otherwise, any amount due to loss in value of its interest by reason of the approach of the time when, either by death, or other termination, the entire value will be lost.

If a trustee, in determining net income distributable to a beneficiary, could under the income tax law deduct from gross income any item (such as, for example, depreciation of income producing property) before making payment to the beneficiary, but if the laws of the jurisdiction governing the administration of the trust property require the income to be paid without making such deduction, then for tax purposes the beneficiary may not deduct any amount from the income received from the trustee on account thereof.

Credits

The following credits are allowed:

I. Upon income:

1. Amount of federal war-profits and excess-profits taxes imposed for the taxable year. Provision is made for prorating this credit in the case of corporations with fiscal years ending in 1921 and 1922. Section 236.

2. In the case of a domestic corporation, the net income of which is \$25,000 or less, \$2,000; but, if the net income exceeds \$25,000, the total tax shall not exceed an amount equal to the tax figured as though the credit were allowed, plus the amount by which the net income exceeds \$25,000. Section 236 (b).

II. Upon income and war-profits and excess-profits taxes:

In the case of a domestic corporation, income and excess or war-profits taxes paid, during the taxable year, to any foreign country, or to any possession of the United States, with certain provisos outlined in section 238.

Rates of tax

The tax for 1922 and for subsequent calendar years the rate is 12½ per cent.

Returns

For taxation

Returns of income (form 1120) must be filed on or before March 15, 1922, or on the 15th day of the third month after the close of the fiscal year, and in the case of nonresident foreign corporations on June 15th annually or on the 15th day of the sixth month after the close of the fiscal year, and annually thereafter. Such return shall be filed with the collector of internal revenue for the district in which is located the

principal place of business of the corporation. The return of a nonresident alien corporation having no office or agency in the United States, shall be filed with the collector of internal revenue at Baltimore, Md. Section 239; section 241.

"Affiliated" corporations (section 240) are required to file consolidated returns for any taxable year beginning prior to January 1, 1922, and for any taxable year beginning on or after that date, have the option of filing consolidated or separate returns, provided that a corporation having filed returns on either basis for any taxable year beginning on or after January 1, 1922, shall not thereafter change the basis, without the consent of the Commissioner of Internal Revenue. Two or more domestic corporations shall be deemed to be affiliated:

1. If one corporation owns or controls substantially all of the stock of the others; or
2. If substantially all of the stock of two or more corporations is owned or controlled by the same interests.

For allocation of tax between companies, see section 240 (b).

Only one specific credit of \$2,000 is allowed, if the tax is assessed on the basis of a consolidated return.

Of information

Every corporation, joint-stock company, association, or insurance company making payment to an individual, partnership, or corporation of interest, rent, wages, or other fixed or determined income of \$1,000 or more in any taxable year, shall render such return as may be required by the Commissioner of Internal Revenue. Section 256.

Corporations undertaking as a matter of business the collection of foreign items (section 259) are required to obtain a license from the Commissioner of Internal Revenue and to

make such reports as may be required by the Commissioner. Corporations acting as brokers (section 255) shall, when required by the Commissioner of Internal Revenue, render a return showing the names of customers, with such details as to profits, losses, or other information as the Commissioner may require. Corporations shall also, when required by the Commissioner of Internal Revenue, render a return of dividends paid. Section 254.

Payment of tax

The tax is payable in four equal quarterly installments. Section 250 (a). The first installment is due when the return is required by law to be filed (on or before March 15th, or on the 15th day of the third month after the close of the fiscal year). Nonresident foreign corporations file returns and pay taxes in accordance with the provisions of sections 227 and 250 (a). At the option of the taxpayer the entire amount of the tax due may be paid at the time of filing return. If an extension of time for filing a return is granted a similar extension in the time the first installment of the tax is payable is allowed, but the time for the payment of the subsequent installments is not postponed unless the Commissioner specifically so provides in granting the extension. However, if the extension of time is granted *at the request of the taxpayer*, interest at the rate of one-half of 1 per cent. per month is added from the time the installment would have been due, had no extension been granted, until the date of payment. The entire tax becomes due and payable upon notice and demand by the collector, should there be a default upon any installment. (Instructions printed on the return shall, with respect of the first installment of the tax, be deemed sufficient notice and demand by the collector.) Failure to pay the tax

when due, or within ten days after notice and demand by the collector, renders the taxpayer liable to a penalty of 5 per cent. of the amount of tax due, plus interest at the rate of 1 per cent. per month. Should a taxpayer understate the amount of tax due through negligence (without intent to defraud) there shall be added 5 per cent. of the total amount of the deficiency, plus interest at the rate of 1 per cent. per month. The penalties for filing fraudulent returns with intent to evade tax are severe. Section 250 (e); section 250 (b); and section 253.

Definitions

1. The "*taxable year*" means the *calendar year* or any *fiscal year* duly designated by the taxpayer. Section 200.

2. The term "*fiduciary*" includes guardians, trustees, executors, administrators, receivers, or others acting in any fiduciary capacity. It does not include an ordinary agent or a person acting under a power of attorney. Section 200.

Net losses

This section applies to any taxpayer who sustains a net loss, as hereinafter defined, for any taxable year beginning after December 31, 1920, resulting from any trade or business regularly carried on by the taxpayer.

The term "net loss," as here used, means the excess of all regular deductions (see sections 214 and 234) over the taxpayers' gross income for the taxable year, plus—

1. The excess of tax-exempt interest received over interest paid or accrued on indebtedness to carry tax-exempt securities, other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer.

2. The excess of deductible losses incurred, over profits derived, outside of such trade or business.

3. Depletion taken on account of the discovery value (in lieu of cost) of any mine, gas or oil well.

4. In the case of corporations, dividends received and deducted from gross income. Section 204 (a).

Such "net loss" may be deducted from the taxpayer's net income for the succeeding year, and any unabsorbed balance may be deducted from net income for the next succeeding year. Section 204 (b).

Members of partnerships and beneficiaries of estates or trusts are entitled to their proportionate shares of this deduction. Section 204 (c).

Dividends

The term "dividend" means any distribution of corporate income to shareholders from earnings or profits accumulated since February 28, 1913, except a distribution by a "personal service corporation," from income accumulated between December 31, 1917, and January 1, 1922. Such distribution is presumed to be made from income and from the most recently accumulated income to the extent of income accumulated since February 28, 1913, but any income accumulated prior to March 1, 1913, may be distributed exempt from tax after *all* income accumulated since February 28, 1913, has been distributed. A dividend should be included in the gross income of the taxpayer as of the date upon which it is unqualifiedly payable.

Stock dividends are not taxable until sold. The regulations issued by the Commissioner of Internal Revenue should be consulted in determining the extent to which income is deemed to arise from the sale of stock dividends. Section 201.

Basis for determining gain or loss

(a) The basis for computing profit or loss arising from a sale or other disposition of property acquired (section 202 [a]) *after* February 28, 1913, is the cost thereof, except—

1. As to such property carried in the taxpayer's inventory as provided in section 203 of the act, of which the basis is the last inventory value thereof.

2. As to such property acquired by gift *after* December 31, 1920, the basis is the same that it would have in the hands of the donor, or the last preceding owner by whom it was not acquired by gift.

3. As to such property acquired by gift *on or before* December 31, 1920, the basis is the fair market value at the time of acquisition.

4. As to such property acquired by bequest, devise, or inheritance, the basis is the fair market value at the time of acquisition.

(b) As to property acquired (section 202 [b]) *before* March 1, 1913, the basis shall be the same as outlined above except that—

1. Where both cost and fair market value on March 1, 1913, are less than the value realized, the basis for computing profit is cost or fair market value on March 1, 1913, whichever is higher.

2. Where both cost and fair market value on March 1, 1913, are in excess of the value realized, the basis for computing loss shall be cost or fair market value on March 1, 1913, whichever is lower.

3. No profit is deemed to arise, if either cost or fair market value on March 1, 1913, exceeds the value realized.

4. No loss is deemed to arise if either cost or fair market value on March 1, 1913, is less than the value realized.

It will be observed that as to property acquired prior to March 1, 1913, no taxable profit is deemed to arise unless both cost and value on that date are less than the selling price, and no loss is deductible unless both cost and value on March 1, 1913, exceed the selling price.

(c) For the basis of computing gain or loss upon an exchange of property, see subsections (c), (d), and (e) of section 202.

Capital gain

A taxpayer (other than a corporation), who on any sale or exchange of "capital assets" after December 31, 1921, derives a net profit (after deducting all items properly chargeable against the transactions), is entitled to the benefit of this provision, if his total income tax for the taxable year exceeds $12\frac{1}{2}$ per cent. of his net income for such taxable year. Section 206.

The term "capital assets," as here used, means any property (including securities) acquired by the taxpayer for profit and held *for more than two years* (whether or not connected with his trade or business), but does not include property held for personal use, or stock in trade or other property which would properly be included in inventory.

Under this section a taxpayer shall first compute his tax in the regular way, on his net income *excluding* the net profit from the sale or exchange of "capital assets," and to that tax shall add a tax of $12\frac{1}{2}$ per cent. on such net profit: *Provided, however,* that the total tax under this section shall in no case be less than $12\frac{1}{2}$ per cent. of the taxpayer's net income in-

cluding the profit from the sale or exchange of "capital assets."

Members of a partnership or beneficiaries of an estate or trust are entitled to the benefit of this section on their proportion of any net profit on the sale or exchange of "capital assets," made by the partnership, estate, or trust. The partnership or fiduciary return must show separately ordinary net income and such net profit.

Withholding at the source

Any individual, partnership, or corporation shall (section 221; section 237), when paying income derived *from sources within the United States*, withhold the amount of tax indicated below in the following cases:

| | Amount Withheld |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1. When paying any kind of income to domestic or resident corporations..... | None |
| 2. When paying dividends from corporations subject to income tax to any stockholder (section 221(b)) | None |
| 3. When paying interest upon "tax-free covenant" bonds of domestic and resident corporations and foreign corporations having a paying agent in this country <i>to any bondholder</i> other than a domestic or resident corporation. (Citizen or resident individuals, and if permitted by regulations, non-resident alien individuals, may claim exemption from such withholding by filing on or before February 1st, a notice with the withholding agent.) | 2% |
| 4. When paying all other income to citizens or resident individuals, or domestic partnerships..... | None |

Amount
Withheld

5. When paying any kind of income other than (section 221 [a]):
 - (a) Dividends from corporations subject to income tax.
 - (b) Interest upon bonds of a corporation containing "tax-free covenant" clause, or
 - (c) Interest on the bank deposits of a nonresident alien not engaged in business in, and having no office within the United States—
to nonresident alien individuals or to foreign partnerships having one or more nonresident alien partners..... 8%
6. When paying any kind of income other than:
 - (a) Dividends from corporations subject to income tax, and
 - (b) Interest on bank deposits of a foreign corporation not engaged in business in, and having no office within the United States, and
 - (c) Interest on "tax-free covenant" bonds—
to a foreign corporation..... 12½%
7. Under authority of section 221 of the act, the Commissioner requires 2 per cent. to be withheld in cases of payment to unknown owners of interest from "tax-free covenant" bonds of domestic and resident corporations and foreign corporations having a paying agent in this country and 8 per cent. on payments to unknown owners of interest from other securities.

"Tax-free covenant" bonds

Generally speaking, such bonds contain a clause whereby the issuing corporation agrees to pay the interest thereon as it matures, without deduction for any tax or taxes which the corporation may be required by law to deduct or retain therefrom. The law requires the corporation issuing bonds of this class to withhold 2 per cent. of the interest paid (except when the bonds are owed by another corporation), nevertheless the owner actually receives the full amount of the interest due. This is explained as follows: The debtor corporation pays to the owner of the bond 98 per cent. of the interest, retaining for remittance to the government the 2 per cent. which is required by law to withhold. Section 221 (b).

However, in the performance of its "tax-free covenant" it pays to the owner of the bonds, from other funds, a sum equal to the 2 per cent. withheld. These operations for convenience take the form of a single transaction, and the owner of a bond receives 100 per cent. of the interest payable. It will therefore be seen that the actual cost to the debtor corporation is 102 per cent. of the amount of such interest. The law (contrary to previous ruling of the Treasury Department) provides that the taxpayer *need not* include as additional income the 2 per cent. withheld on interest collected by him on "tax-free covenant" bonds. Section 234 (a) (3).

Examination of returns—Procedure for review— Necessary foundation preceding action in courts for relief by taxpayers, etc.

On the Commissioner of Internal Revenue is imposed the duty of examining income tax returns. This has been delegated to the Income Tax Unit. In addition to examining the

return, the Commissioner is authorized to examine the books of the taxpayer. See section 1308. Examination of the return and the books often takes place a long time after the return is filed. Taxpayers are therefore warned to carefully preserve all their records for a sufficient period of time to cover the four years after the return is filed, within which time the government must make assessment. In the years previous to 1921 the government was allowed a period of five years for the assessment of taxes. The time for assessment is sometimes extended by agreement between the Commissioner and the taxpayer. These limitations, however, do not apply in the case of false or defective returns. In these latter cases there is no statute of limitations. After the examination of the return, supplemented by a field examination, if the same has been made, the Bureau of Internal Revenue writes a letter, known as A-2, to the taxpayer, stating that the audit shows an overassessment or an underassessment as the case may be. The taxpayer is given 30 days' notice by registered mail, within which to file appeal and show cause why the additional tax due should not be paid. This notice need not be given, when delay would jeopardize the collection of the amount due. Letter A-2 is sent under registered mail and constitutes the necessary notice. The taxpayer is offered an opportunity of replying in writing or appearing in person. Representatives of taxpayers are required to file a power of attorney and may be required to show the government the terms of any contract they have with the taxpayer relating to their fees for services on a contingent basis. See paragraph 3193, Corp. Trust Co. Income Tax Service 1922. If the Income Tax Unit decides, after this hearing, against the taxpayer, he is permitted to take an appeal to the Committee on Appeals and Review. The tax-

payer is advised of the decision by the Committee, and if the tax is found due must pay the tax within 10 days after the notice and demand by the collector in accordance therewith. If the taxpayer intends to contest the matter further, he should pay the tax under protest and also file claim for credit or claim for refund. These are all necessary preliminaries to the right to sue at law to recover the taxes paid. It has been held that no question may be raised in the action at law which was not presented before to the Commissioner of Internal Revenue. *Kemper Military School v. Crutchley* (D. C.) 274 Fed. 125

Estate tax

Title IV, §§ 400-411, Revenue Act of 1921.

The estate tax imposed by the act of 1921 is in lieu of a similar tax imposed by title IV of the act of 1918 which it substantially re-enacts. It is levied against the transfer of the net estate of every person dying after 3:55 p. m. November 23, 1921, the day the new law was passed and became effective. The difference between the old and new laws consists chiefly of changes in form of expression for the purpose of clarifying certain points, although one material variation in the new act excludes life insurance and money in a domestic bank from the gross estate within the United States of a nonresident decedent. Another new clause provides that missionaries are not to be classed as nonresidents.

* Rates of Tax

Estates of decedents, resident or non-resident, are subject to a tax equal to the sum of the following percentages of the value of the net estate:

TABLE FOR COMPUTING ESTATE TAX.

| Net Estate* | | Date of Death | | | | | | | | | |
|----------------|---------------------|------------------------|----------------------------------------------------------------------------|---------|------------------------------------------------------------|---------|-------------------------------------------------------------------------------|---------|----------------------------------------------------------------------------|---------|-----------|
| Ex- ceeding | Not ex- ceeding. | Amount of block. | Sept. 9, 1916, to Mar. 2, 1917 inclu- sive (Revenue Act of 1916). | | Mar. 3, 1917 to Oct. 3, 1917, inclusive (Amendment). | | Oct. 4, 1917, until 6:55 P.M., Feb. 24, 1919, (Revenue Act of 1917). | | After 6:55 P.M., Feb. 24, 1919, (Revenue Acts of 1918 and 1921).* | | Total. |
| | | | Tax. (per cent). | Total. | Rate (per cent). | Total. | Rate (per cent). | Total. | Rate (per cent). | Total. | |
| ..... | \$50,000 | \$50,000 | 1 | \$500 | 1½ | \$750 | 2 | \$1,000 | 1 | \$500 | \$500 |
| \$50,000 | 150,000 | 100,000 | 2 | 2,000 | 3 | 3,000 | 3 | 4,000 | 2 | 2,000 | 2,500 |
| 150,000 | 250,000 | 100,000 | 3 | 3,000 | 4½ | 4,500 | 4 | 6,000 | 3 | 3,000 | 5,500 |
| 250,000 | 450,000 | 200,000 | 4 | 8,000 | 6 | 12,000 | 6 | 16,000 | 4 | 8,000 | 13,500 |
| 450,000 | 750,000 | 300,000 | 5 | 15,000 | 7½ | 22,500 | 10 | 30,000 | 6 | 18,000 | 31,500 |
| 750,000 | 1,000,000 | 250,000 | 5 | 12,500 | 7½ | 18,750 | 10 | 25,000 | 8 | 20,000 | 51,500 |
| 1,000,000 | 1,500,000 | 500,000 | 6 | 30,000 | 9 | 45,000 | 12 | 60,000 | 10 | 50,000 | 101,500 |
| 1,500,000 | 2,000,000 | 500,000 | 6 | 30,000 | 9 | 45,000 | 12 | 60,000 | 12 | 60,000 | 161,500 |
| 2,000,000 | 3,000,000 | 1,000,000 | 7 | 70,000 | 10½ | 105,000 | 14 | 140,000 | 14 | 140,000 | 301,500 |
| 3,000,000 | 4,000,000 | 1,000,000 | 8 | 80,000 | 12 | 120,000 | 16 | 160,000 | 16 | 160,000 | 461,500 |
| 4,000,000 | 5,000,000 | 1,000,000 | 9 | 90,000 | 13½ | 135,000 | 18 | 180,000 | 18 | 180,000 | 641,500 |
| 5,000,000 | 6,000,000 | 1,000,000 | 10 | 100,000 | 15 | 150,000 | 20 | 200,000 | 20 | 200,000 | 841,500 |
| 6,000,000 | 7,000,000 | 1,000,000 | 10 | 100,000 | 15 | 150,000 | 20 | 200,000 | 20 | 200,000 | 1,041,500 |
| 7,000,000 | 8,000,000 | 1,000,000 | 10 | 100,000 | 15 | 150,000 | 20 | 200,000 | 20 | 200,000 | 1,241,500 |
| 8,000,000 | 9,000,000 | 1,000,000 | 10 | 100,000 | 15 | 150,000 | 22 | 220,000 | 22 | 220,000 | 1,461,500 |
| 9,000,000 | 10,000,000 | 1,000,000 | 10 | 100,000 | 15 | 150,000 | 22 | 220,000 | 22 | 220,000 | 1,681,500 |
| 10,000,000 | ..... | ..... | 10 | ..... | 15 | ..... | 25 | ..... | 25 | ..... | ..... |

*As here used the term "net estate" means the gross estate after making all proper deductions including the \$50,000 exemption allowed residents.

**Estates of decedents who died after 6:55 p.m., February 24, 1919, but before 3:55 p.m., November 23, 1921, are subject to the provisions of the act of 1918. Estates of decedents dying subsequently are subject to the provisions of the act of 1921. The rates of tax under the two acts are similar.

Exemptions

A specific exemption of \$50,000 is allowed in computing the net estate of resident. This exemption does not apply in case of a nonresident decedent.

Gross estates—Residents

The gross estate includes all real property situated within the United States and all tangible and intangible personal property wherever situated, belonging to the decedent, at its value at the time of his death. Section 402.

The statute specifically includes the following:

1. All property transferred by the decedent (including transfers by deed under a general power of appointment) in contemplation of death or to take effect at or after death, except in case of a bona fide sale. Any transfer of a material part of decedent's property in the nature of a final disposition thereof, made within two years of his death and without fair consideration will be presumed to have been made in contemplation of death, unless otherwise shown. Section 402 (c) (e).

2. The value of property over which the decedent exercised by will a general power of appointment. Section 402 (e).

3. The interest of the decedent in property held jointly. Section 402 (d).

4. All insurance payable to the estate of the decedent under policies taken out by the decedent upon his own life, and all such insurance exceeding \$40,000 receivable by all other beneficiaries. The value at the time of death of insurance payable in installments determines the amount of such insurance for this purpose. Section 402 (f).

Deductions—Net estate—Residents

The value of the net estate is determined by deducting from the value of the gross estate the following (section 403 (a)):

1. Funeral expenses.
2. Administration expenses.
3. Claims against the estate, exclusive of any estate or inheritance taxes and income taxes on income accrued after the death of the decedent.
4. Losses during administration through casualty (not compensated for by insurance or otherwise).
5. Support of dependents during administration allowed by local law.
6. The value of property given to or for the use of the United States or any political subdivision thereof for public purposes, or to or for the use of a corporation organized and operated exclusively for religious, charitable, educational (etc.) purposes, or to trustees exclusively for such purposes. Section 403 (a) (3).
7. Any part of the decedent's estate (if death occurred after September 8, 1916) which can be identified as a share (to the extent of appraised value on taxation of prior estate) in the gross estate, situated within the United States, of any person who died within five years prior to the decedent's death, if an estate tax under any prior federal act was paid thereon. Section 403 (a) (2).
8. An exemption of \$50,000. Section 403 (a) (4).

Deductions—Nonresidents

Deductions in the cases of nonresidents are allowed only if the executor includes in the return the value, at the time of death, of that part of the gross estate outside of the United States. Income taxes on income received after decedent's

death are not proper deductions nor, except in a few cases, are inheritance taxes imposed by state laws deductible.

Executor must file return

The executor or administrator of an estate, within two months after qualifying as such, or, if there is no executor or administrator, any one in actual or constructive possession of any property of the decedent, within two months after the death, must notify the collector of internal revenue, and, under prescribed regulations, make a return:

(a) In all cases where the gross estate at the time of death exceeds \$50,000.

(b) In the case of every nonresident any part of whose gross estate is in the United States.

Payment of tax

The tax is due one year after the date of death, but if the Commissioner finds that payment in that time would impose undue hardship on the estate, he may grant an extension up to three years from the due date. If the tax is not paid within a year and 180 days after the date of death, interest at the rate of 6 per cent. annually from the end of the first year, shall be added, irrespective of any extension. The tax is payable by the executor, and, so far as is practicable and unless otherwise directed by the decedent's will, is to be paid out of the estate before its distribution. Payment may be made in Liberty bonds bearing a higher rate of interest than 4 per cent. providing they were owned by the decedent for at least six months prior to the date of his death.

Capital stock tax

Title X, § 1000, Revenue Act of 1921.

Returns

Effective July 1, 1922, corporations must file a return in July of each year in accordance with such regulations as the Commissioner of Internal Revenue may prescribe.

Exempt corporations

The following are not subject to this tax:

- (1) Corporations not engaged in business during the preceding fiscal year; i. e., the twelve months ending June 30.
- (2) Corporations listed in section 231 of the 1921 act.
- (3) Insurance companies, except mutual companies other than life.

Basis and rate of tax

This is an annual excise tax paid in advance for the privilege of doing business in a corporate capacity during the period of twelve months beginning July 1. The rate of tax is \$1 for each \$1,000 of the fair average value above \$5,000 of the corporation's capital stock during the twelve months preceding July 1, or any part thereof during which the corporation was in existence.

A corporation beginning business after July 1 is not subject to tax until the following July 1.

Stamps taxes

Title XI, §§ 1100-1107, Revenue Act of 1921, Schedule A.

Beginning January 1, 1922, internal revenue stamps must be affixed to the following documents in the amounts specified:

Bonds and debentures or certificates of indebtedness

Issued by any person, and all corporate securities issued with interest coupons or in registered form, on each \$100 of face value or fraction thereof, 5 cents.

Renewals are taxed as new issues.

When a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax is on the amount secured.

Capital stock, original issue

Stamps must be attached to the stock book, not to certificates.

On each \$100 par value, or fraction thereof, 5 cents.

Nonpar value—actual value \$100 a share, 5 cents; actual value less than \$100 a share, on each \$20 of actual value or fraction, 1 cent; actual value more than \$100 a share, on each \$100 of actual value or fraction, 5 cents.

Capital stock and rights, sales or transfers

Stamps must be affixed—(a) To transfer book where transfer is shown only by book; (b) to certificate where transfer is by certificate; (c) to bill of sale where certificate is delivered in blank.

On par value stock, each \$100 face value or fraction, 2 cents; on nonpar value stock, each share, 2 cents.

Conveyances of real estate not to secure debt

On consideration, less any lien or incumbrance at the time of sale, over \$100 and not over \$500, 50 cents; each additional \$500 or fraction thereof, 50 cents.

Draft or check

If not payable at sight or on demand, upon acceptance or delivery within the United States, whichever is prior, 2 cents on each \$100 or fraction thereof.

Promissory note

And for each renewal thereof (except bank notes issued for circulation), 2 cents on each \$100 or fraction thereof.

This tax does not apply to a promissory note secured by obligations of the United States issued after April 24, 1917, or secured by a promissory note which itself is secured by such obligations, provided that in either case the par value of such obligations is not less than the amount of such note.

Entry of goods

At any customhouse for consumption or warehousing—not exceeding \$100 in value, 25 cents; exceeding \$100, but not exceeding \$500, 50 cents; exceeding \$500, \$1.

Entry for withdrawal of goods

From customs bonded warehouse, 50 cents.

Passage ticket

For each passenger, sold or issued in the United States for passage by any vessel to a place not in the United States, Canada, or Mexico—\$1, if cost exceeds \$10 and does not exceed \$30; \$3, if cost exceeds \$30 and does not exceed \$60; \$5, if cost exceeds \$60.

Proxy

For voting at an election for officers, or a meeting of any corporation, except religious, educational, charitable, fraternal or literary societies, or public cemeteries, 10 cents.

Produce, sales of, on exchange for future delivery

On each \$100 in value of merchandise, 2 cents. Each additional \$100 or fraction thereof, 2 cents.

Power of attorney

25 cents. No tax is imposed on papers required in collection of claims from the United States or any State for pensions, back pay, bounty, or for property lost in military or naval service, or in bankruptcy cases.

A power of attorney contained in a form of assignment of certificates of stock is not subject to this tax.

Playing cards

On every pack containing not more than 54 cards, manufactured or imported and sold, 8 cents per pack.

Insurance policy

And other instruments of insurance on property within the United States, issued to or for a resident of the United States by a nonresident insurer (and not signed by an officer or agent thereof in a state, territory, or district of the United States in which the insurer is authorized to do business), covering loss in transit or by fire, lightning, wind storm, invasion, insurrection, or riot, 3 cents on each \$1 or fractional part thereof of premium charged.

The resident insured or his agent is required to affix the proper stamps.

Policies of reinsurance are exempt from this tax.

Exempt items

The above taxes do not apply to any bond, note or other instrument issued by the United States or any political subdivision thereof, or municipal or other corporation exercising the taxing power, or by any foreign government, or to stocks or bonds issued by certain co-operative building or loan associations, or by mutual ditch or irrigation companies. Section 1101.

Public facilities tax

The taxes imposed by section 500 of the Revenue Act of 1918 upon freight and express charges, passenger, parlor, sleeping car, and stateroom fares, and charges for transportation of oil by pipelines, as well as the tax imposed by sec-

tion 503 of that act on the issuance of life, marine, inland, fire, and casualty insurance policies, were repealed as of January 1, 1922.

The 1921 law retains the tax imposed by subdivisions (f) and (g) of section 500 of the 1918 act, upon telegraph, telephone, cable and radio dispatches, messages or conversations and leased wires, with methods of collection and payment unchanged.

Rates of tax

(1) On telegraph, telephone, cable and radio messages originating within the United States:

(a) Where the charge is more than 14 cents and not more than 50 cents, the tax is 5 cents.

(b) Where the charge is more than 50 cents, the amount of tax is 10 cents.

(2) Leased wire or talking circuit special service is taxed 10 per cent. of the amount paid for the service, but no added tax accrues when messages are sent.

(a) In collecting and disseminating news through the public press.

(b) By a common carrier, or telegraph or telephone company, in conducting its business as such.

(c) By the federal, or any state or territorial government, or by the District of Columbia.

Tax on admissions and dues

Title VIII, §§ 800-802, Revenue Act of 1921.

ADMISSIONS

Rate of tax

Effective January 1, 1922, a tax of 1 cent for each 10 cents or fraction thereof paid for admission to any place, including

admission by season ticket or subscription, must be paid by the person paying for the admission, except where the admission charge does not exceed 10 cents, in which case no tax is imposed.

Additional tax

In addition to the above, a tax of 5 per cent. of the excess price charged is levied on the amount paid for tickets to places of amusement sold at places other than the ticket offices of such amusements, at higher than the established price, provided that the excess price is not more than 50 cents. If the excess price is more than 50 cents, the additional tax is 50 per cent. of the excess.

Where tickets to places of amusement are sold at more than the established price by proprietors of the amusements or their employees, the additional tax is 50 per cent. of the excess.

Reduced rates and free admissions

Where persons are admitted at reduced rates, the tax is upon the actual amount paid, and not, as formerly, on the full admission price. No tax is imposed on free admissions.

Boxes or seats for permanent use

In lieu of the tax mentioned in paragraph 1 above, there is levied on the lessee or holder of boxes or seats for permanent use a tax equivalent to 10 per cent. of the amount for which similar boxes or seats are sold for each performance at which the box or seat is used or reserved.

Cabarets

Where the price of admission is included entirely or in part in the amount paid for refreshments, service, etc., as in cabarets, roof gardens or similar entertainments, a tax of $1\frac{1}{2}$ cents is imposed for each 10 cents or fraction thereof of the admis-

sion price. The admission price in such cases is deemed to be 20 per cent. of the amount paid for refreshments, service, etc.

Admissions not subject to tax

No tax is imposed where all the proceeds of the entertainment are used for the purposes specified in section 800 (b).

DUES

Effective January 1, 1922, *dues or membership fees*, in social, athletic or sporting clubs, where the active resident annual dues are more than \$10, are subject to a tax of 10 per cent.

Initiation fees of such clubs are subject to a tax of 10 per cent:

- (1) If the fee is more than \$10.
- (2) If the annual dues of an active resident member exceed \$10.

Life membership

A life member is taxed annually at the same time and for the same amount as an active resident annual member.

Dues not subject to tax

Dues of fraternal societies operating under the lodge system, certain labor organizations, the Y. M. C. A., and similar associations, are exempt from tax.

Excise taxes

Title IX, §§ 900-906, Revenue Act of 1921.

Luxury taxes

Many of the so-called luxury taxes have been repealed. These include the taxes on wearing apparel, toilet articles, and similar things.

Manufacturers' excise tax

Effective January 1, 1922, taxes are imposed against the manufacturer, producer or importer, on the selling price of the articles listed below as follows:

| <i>Article</i> | <i>Tax</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Automatic slot-device vending machines..... | 5% |
| Automatic slot-device weighing machines..... | 10% |
| Automobile tractors and automobile wagons (including tires, inner tubes, parts, and accessories, etc., sold on or in connection with the machine)..... | 3% |
| Automobiles and motorcycles (except tractors and those mentioned above), including tires, inner tubes, parts, and accessories, etc., sold on or in connection with the machine | 5% |
| Cameras weighing not more than 100 pounds, and lenses for them..... | 10% |
| Candy | 3% |
| Cigar and cigarette holders and pipes composed wholly or partly of meerschaum or amber, humidors and smoking stands..... | 10% |
| Daggers, dirk knives, sword canes, stiletos, and brass or metallic knuckles..... | 100% |
| Firearms, shells and cartridges..... | 10% |
| Hunting and bowie knives..... | 10% |
| Hunting and shooting garments and riding habits..... | 10% |
| Liveries and livery boots and hats..... | 10% |
| Photographic films and plates (other than moving picture films)..... | 5% |
| Tires, inner tubes, parts, or accessories, etc..... | 5% |
| Yachts and motor boats not designed for trade, fishing or national defense, and pleasure boats and pleasure canoes, if sold for more than \$100..... | 10% |

Articles in the following list are taxed 5 per cent. on that part of the selling price above the specified amounts:

(1) Carpets and rugs, including fiber, on the amount over \$4.50 a square yard for carpets, and \$6 a square yard for rugs.

(2) Fans, on the amount over \$1 each.

(3) Portable lighting fixtures, including lamps and lamp shades, on the amount over \$10 each.

(4) Purses, pocketbooks, and shopping and hand bags, on the amount over \$5 each.

(5) Trunks, on the amount over \$35 each.

(6) Valises, traveling bags, suit cases, hat boxes used by travelers, and fitted toilet cases, on the amount over \$25 each.

Works of art

A tax of 5 per cent. of the selling price is imposed upon the dealer on sales of sculpture, paintings, statuary, art porcelains, and bronzes except when:

(1) Sale is made by the artist.

(2) Sale is made by one dealer to another dealer for resale.

(3) Sale is made to an educational institution or to a public art museum.

Jewelry

A tax of 5 per cent. of the selling price is imposed upon the dealer on:

(1) All articles of jewelry, real or imitation.

(2) Pearls and semi-precious stones and imitations.

(3) Articles made of or ornamented, mounted or fitted with precious metals or imitations thereof, or ivory (except surgical instruments, eyeglasses and spectacles).

(4) Watches, clocks, opera glasses, lorgnettes, marine glasses, field glasses and binoculars.

Miscellaneous occupational taxes

Title X, § 1001, Revenue Act of 1921.

Annual taxes on the following occupations are effective as of July 1, 1922:

| <i>Occupation</i> | <i>Tax</i> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Brokers | \$ 50 |
| If a broker is a member of a stock exchange, or of any produce exchange, board of trade or similar organization where produce or merchandise is sold, and if the average value during the preceding year ending June 30, of a seat or membership in such exchange or organization was not less than \$2,000 and not more than \$5,000, an additional..... | 100 |
| More than \$5,000, an additional..... | 150 |
| Pawnbrokers | 100 |
| Ship brokers..... | 50 |
| Custom house brokers..... | 50 |
| Theaters, museums, and concert halls: | |
| Seating capacity not over 250..... | 50 |
| Seating capacity over 250 and not over 500..... | 100 |
| Seating capacity over 500 and not over 800..... | 150 |
| Seating capacity exceeding 800..... | 200 |
| (In cities, towns or villages of 5,000 population or less, the tax is one-half of these rates, according to seating capacity.) | |
| Circuses (one special tax for exhibition within any one state, territory or the District of Columbia)... | 100 |
| Exhibitions not otherwise provided for (one special tax for exhibitions within any one state, territory, or the District of Columbia)..... | 15 |
| Aggregation of entertainments, known as a "street fair" (maximum) | 100 |

| <i>Occupation</i> | <i>Tax</i> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Bowling alleys and billiard rooms, for each alley or table | 10 |
| Shooting galleries..... | 20 |
| Riding academies..... | 100 |
| Passenger automobiles kept for hire: | |
| Seating from 3 to 7 passengers, each automobile.... | 10 |
| Seating more than 7 passengers, each automobile... | 20 |
| Conducting the business of a brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, or manufacture of stills, contrary to the laws of the state, territory, or District where such a business is prohibited by local or municipal law, in addition to all other taxes..... | 1,000 |

Special tobacco manufacturers' tax

Title X, § 1002, Revenue Act of 1921.

Manufacturers of tobacco, cigars, and cigarettes must pay annually, on and after July 1, 1922, special taxes computed on the basis of sales for the preceding year ending June 30. In computing the amount of annual sales, no account need be taken of tobacco, cigars or cigarettes sold for export and exported.

Rates of tax

| <i>Tobacco</i> | <i>Tax</i> |
|----------------------------------------------------------------------------------------------------------------------|------------|
| Where annual sales do not exceed 50,000 pounds..... | \$ 6 |
| Where annual sales exceed 50,000 pounds but not 100,000 pounds | 12 |
| Where annual sales exceed 100,000 pounds but not 200,000 pounds | 24 |
| Where annual sales exceed 200,000 pounds..... | 24 |
| An additional tax of 16 cents per 1,000 pounds or fraction thereof is imposed on all quantities over 200,000 pounds. | |

*Cigars**Tax*

| | |
|------------------------------------------------------------------------------------------------------------------|----|
| Where annual sales do not exceed 50,000 cigars..... | 4 |
| Where annual sales exceed 50,000 but not 100,000 cigars.. | 6 |
| Where annual sales exceed 100,000 but not 200,000 cigars | 12 |
| Where annual sales exceed 200,000 but not 400,000 cigars | 24 |
| An additional tax of 10 cents per 1,000 or fraction thereof is imposed on all quantities over 400,000 cigars. | |

Cigarettes

On cigarettes, including small cigars weighing not more than three pounds per 1,000, at the rate of 6 cents for every 10,000 or fraction thereof.

Special tax on use of boats

Title X, § 1003, Revenue Act of 1921.

Beginning July 1, 1922, and also at the time of the original purchase of a new boat by a user, and annually thereafter on July 1, a tax is levied on the use of yachts, pleasure boats, power boats, sailing boats and motor boats with fixed engines of over five net tons and more than 32 feet in length, not used exclusively for trade, fishing or national defense, or not built according to plans and specifications approved by the Navy Department. The rates of this tax are:

Where the over-all length is:

| | |
|--------------------------------------|--------------|
| Over 32 feet and under 50 feet..... | \$1 per foot |
| Over 50 feet and under 100 feet..... | 2 per foot |
| Over 100 feet..... | 4 per foot |

FLORIDA

(Revised to May 15, 1922)

1. General features of tax system

The revenues of Florida are derived principally from general property taxes and a long series of occupational taxes and licenses. There are no corporation taxes of importance, and no inheritance or income taxes.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the laws of Florida relating to assessment and collection of taxes and licenses, may be secured from the Comptroller, Tallahassee.

3. State taxing officials

State Equalizer of Taxes, Tallahassee, Florida.

4. Income tax

There is no income tax law in Florida.

5. General property tax

(a) Base

All property, real and personal, in the state, not expressly exempt, is subject to this tax.

"Real property" includes land and buildings, fixtures, and improvements.

"Personal property" includes goods and chattels; moneys and effects; all boats and vessels; all debts due or to become due from solvent debtors, whether on account, contract, note,

or otherwise; and all public stocks or shares in all incorporated or unincorporated companies.

(b) Exemptions

Exempt, besides all public property, are.

The property of fire companies; the property of literary, educational, benevolent, charitable, and scientific institutions; all houses of public worship; property of the Young Men's Christian Association; parsonages; burying grounds, public libraries; and property to the value of \$500 to every widow who has a family dependent on her, and to every person who is a bona fide resident of the state and has lost a limb or been disabled in war or by misfortune. By construction, non-bearing fruit trees are exempt.

(c) Assessment

With the exception of assessment on the operating property of railroad, telegraph, sleeping car, and parlor car companies, the assessment is made by the county assessors and their assistants. It refers to the 1st day of January, and the roll is to be made up between that date and the 1st day of July. Property in general is assessed where located. The assessor makes up the list on the basis of returns by the owners, and "shall require any person to make oath to the correctness of the list." Any person refusing to take such an oath loses the right to a reduction of valuation. The assessor determines the values. Assessment is required to be at "true value." A peculiarity in the assessment of real estate is that the assessor must begin with the lowest numbered section in each township, the lowest numbered block or lot in other surveys, and proceed consecutively. Lands which have escaped taxation may be assessed for back taxes for three years. National bank shares are assessed at the place where the bank is located. The bank is

made the agent of the stockholders for the payment of the tax, which may be retained from dividends. When the timber, or the right to turpentine the same, belongs to a person other than the owner of the land, such timber or privilege shall be assessed separately from the land.

(d) Rate

It is customary for the Legislature to determine the rate and to make a direct levy for each year by statute, specifying the rate for each general purpose. The Constitution requires a levy of 1 mill on the dollar of assessed valuation for school purposes. It is also customary to give the Governor power to lower the rate, if "he discovers from the aggregate assessment and from other sources of revenue" that a reduction is justified. The chief items recognized by special rates are: For the general fund, usually 2 mills; for the state school fund, fixed by Constitution, 1 mill; for the state pension fund, 4 mills. Special taxes for the maintenance of drainage and levee systems may be levied against the property benefited thereby.

(e) Collection

State, county, and school district taxes, together with any special taxes authorized by the county commissioners, are collected on one roll by the county tax collector. The extensions are made by the assessor. Taxes are a lien on any property of the taxpayer, and may be collected by distress. They are due on the first Monday in November, and become delinquent on the first Monday in April. Taxpayers paying their taxes between November 1 and December 1 are allowed a discount of 2 per cent. therefrom; paying between December 1 and January 1, a discount of 1 per cent. When land sold for

taxes is redeemed, the person redeeming same shall pay all back taxes thereon.

5½. Occupational taxes and licenses

Florida imposes a license tax on persons, firms, and corporations engaged in various businesses. State licenses, state and county, and county licenses are issued. The amounts charged vary for different occupations and under various circumstances in some businesses. Nearly every kind of conceivable business activity is separately covered. The list includes agents for various corporations, automobile agencies, dealers in motorcycles, garages, advertising on streets with banners, patent medicine venders advertising by minstrels, vehicle advertising on streets with banners, bill posting, distributing circulars, railways, renting space in street cars for advertising, accountants, dealers in alligators, analytical chemists, architects, auctioneers, abstracters of titles, amusement parks, penny arcades, auction shops, automatic vending machines, dealers in arms, astrologists, Turkish, Russian, or other baths, swimming pools, brokers dealing in stocks and bonds, brokers dealing in insurance, brokers dealing in land, brokers dealing in merchandise, dealers in butterine, dealers in secondhand boots and shoes, bakeries, bankers and trust companies, barber shops, boat houses, canning factories, civil engineers and surveyors, clairvoyants, bottling plants, laundries, commission merchants, cash registers, cider, cigars and tobacco, curios, secondhand clothing, carriage or wagon factories, cold storage plants, chewing gum stands, etc., through the alphabet, to undertakers, warehouses, and water companies.

Exemptions

"All confirmed cripples or invalids, physically incapable of manual labor, or all Confederate veterans of the Civil War,

and widows who are dependent upon their own exertions, shall be allowed to peddle without paying a license, using their own capital only, not in excess of five hundred dollars, and in counties in which they live: Provided, such exemptions shall be allowed only upon the certificate of the county or other reputable physician of the disability herein named: Provided, this exception shall not apply to the sale of spirituous, vinous or malt liquors, lightning rods and cigarettes." Section 995.

"All farm and grove products, and products therefrom * * * shall be exempt from all forms of license tax, state, county and municipal, when same is being offered for sale by the farmer or grower producing the said products." Section 996.

7. Inheritance taxes

There is no inheritance tax law in Florida.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization taxes. There is no annual franchise tax.

(b) Organization taxes

Fees to Secretary of State:

Charter fee, \$2 on each \$1,000 of capital, but not less than \$5 nor more than \$250. Filing charter, \$1. Recording charter and letters patent, \$2.50.

Fees to clerk of circuit court:

Recording charter, 25 cents on first 100 words; 10 cents on each additional 100 words. Publication of notice of intention to apply for charter, usually \$50.

(c) Annual franchise taxes

None.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance fees and taxes only. There is no annual franchise tax.

(b) Entrance fees

A sum equal to that which the corporation would have been required to pay as a charter fee if it had been incorporated under the laws of Florida. The charter fee required of domestic corporations is as follows: Two dollars upon each one thousand dollars of the capital stock of such corporation: Provided, that no such charter fee shall be less than five dollars, nor more than two hundred and fifty dollars. Fee to Secretary of State for issuing permit, five dollars.

(c) Annual franchise taxes

None.

GEORGIA

(Revised to May 15, 1922)

1. General features of tax system

The revenue system of Georgia is, like the revenue systems of other Southern states, one which combines a general property tax with a series of license taxes, but unlike some of the other Southern states, the system of license taxes is not very extensive. The Georgia General Assembly regularly passes many special and local acts relating to the municipalities, etc., and the provisions of these laws often modify materially the operation of the general laws, so far as the localities affected are concerned. The provisions of these laws are so heterogeneous that they could not be compiled within a reasonable space.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the General Tax Act of 1914 may be obtained from the State Printer, Atlanta, Georgia.

3. State taxing officials

State Tax Commissioner, Atlanta, Georgia. The Comptroller General handles the public utility corporation returns entirely, and it is through his office that the county tax collectors make their final settlements with the state.

4. Income tax

There is no income tax law in Georgia.

5. General property tax

(a) Base

All real and personal property, whether owned by individuals or corporations, resident or nonresident, is liable to taxation. Real property and personal property are not specially defined for purposes of taxation, and the general definitions prevail. Interest in land less than fee is regarded as real estate. There are no special provisions defining the classes of property subject to taxation. Mortgages are taxed as personal property. Promissory notes, accounts, judgments, mortgages, liens of all kinds, and all choses in action are to be given in at their value, whether solvent or partially solvent.

All stocks owned by residents of Georgia and foreign corporations are subject to tax, without regard to whether the corporation is engaged in any sort of business in Georgia or not.

(b) Exemptions

Public property; all places of religious worship or burial; public charity institutions; buildings used as a college, incorporated academy, or other seminary of learning; property of public libraries and other literary association used in connection with such library; endowments for all educational institutions, when such endowment funds are not invested in real estate, etc.: Provided, that the property so exempted be not used for purposes of private or corporate profit or income.

(c) Assessment

In general, the taxpayer is required to furnish a sworn statement of his property and its valuation to the tax receiver. The tax receiver, however, may fix a different valuation, which is required to be at "the fair market value"; i. e., the amount which the property and subjects would bring, not at

a forced sale, but "when sold in such manner as such property and subjects are usually sold." Immediately after the 1st day of March of each year the Governor, Comptroller General, and State Treasurer shall fix a day between January 1 and April 1 of the following year as the day for making returns, the day not to be fixed until March 1 of each year. On all property referred to as valued for taxation, the valuation refers to the 1st day of January, and this applies to private property as well as property of corporations. Persons who fail to make lists are penalized by double taxation, while defaulting corporations are subject to heavy fines. Back taxes, not assessed or collected in previous years, may be assessed and collected in any year by the Comptroller General. Property of all public utility companies is assessed by the Comptroller General. Express, telephone, and telegraph companies are also assessed upon their property, including the franchise, by the Comptroller General. Banks are not assessed upon their capital, but the shares of stock are assessed to the owners in the county where the bank is located. The shares are valued for taxation at their "full market value," less the value (if clear) or the equity (if mortgaged) of the bank's real estate.

(d) Rate

The Legislature occasionally passes a general tax act for succeeding years, authorizing the Governor with the assistance of the Comptroller General to levy such a tax as is necessary to meet the appropriation of the Legislature for the succeeding years, and to raise in addition a specified sum for a sinking fund required by the Constitution of the state. The state, although it appropriates for school purposes about one-half of the taxes collected, does not levy specifically for schools.

(c) Collection

All public utility corporation taxes, are due September 1st of each year, and taxes on private property are due from October 1st to December 20th; the last-named date being the final date of payment without execution issuing against the taxpayer. The tax collectors of the several counties are allowed until the succeeding April 20th to make their final settlements with the Comptroller General, these additional four months being allowed to enable them to collect such taxes by execution as it may be found necessary to collect in that manner; but all tax collectors are required to issue executions against each defaulting taxpayer after December 20th, which executions bear interest at 7 per cent. from that date.

7. Inheritance taxes**(a) General scope and rates**

All property, real and personal, and every estate and interest therein, belonging to the inhabitants of the state, and all real estate, as well as tangible personal property, within the state, or any interest therein, belonging to persons who are not inhabitants of the commonwealth, which shall pass on the death of the decedent by will or by the laws regulating descents and distributions, or by deed, grant, or gift, except in cases of a bona fide purchase for a full consideration, made or intended to take effect in possession or enjoyment, after the death of the grantor or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, shall be subject to taxes, and shall pay the following tax to the state:

Property passing to wife, husband, child, adopted child, son-in-law, daughter-in-law, lineal descendant, or lineal ancestor, is taxed at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 3 per cent. on amount over ex-

emption over \$500,000. The exemption in this class is \$5,000 to each beneficiary named, except lineal descendant and lineal ancestor, who are allowed \$2,000 as an exemption. Brother, sister, including the half-blood and stepchild, at rates ranging from 3 per cent. on amount to \$25,000 to 9 per cent. on amount over \$500,000. Uncle, aunt, nephew, niece, at rates ranging from 5 per cent. on amount to \$25,000 to 15 per cent. on amount over \$500,000.

All others, at rates ranging from 7 per cent. on amount to \$25,000 to 21 per cent. on amount over \$500,000. Property passing for educational, literary, scientific, religious, charitable, state, or municipal purposes is entirely exempt from taxation.

All real property and tangible personal property of non-residents located within the state is subject to the same rates of taxation as the property of residents.

(b) Official in charge of administration and collection

State Tax Commissioner, Atlanta, Georgia.

(c) When inheritance taxes are due—Discount and penalties

Due at death. No discount. If not paid within 12 months from death, interest at 7 per cent. per annum is added from date of death, except when delay is due to litigation.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual license taxes noted below.

(b) Organization taxes

Fee to clerk of Supreme Court for recording petition, etc., from \$15 to \$30. Publishing petition for four weeks, from \$20 to \$50.

(c) Annual license taxes

All domestic corporations, except insurance and sewing machine companies, pay an annual license tax on or about January 1st as follows:

| | |
|-----------------------------------------------------------------------|-------|
| On authorized capital not exceeding \$10,000..... | \$ 10 |
| On authorized capital over \$10,000 and not over \$25,000 | 15 |
| On authorized capital over \$25,000 and not over \$50,000 | 20 |
| On authorized capital over \$50,000 and not over \$75,000 | 30 |
| On authorized capital over \$75,000 and not over \$100,000 | 50 |
| On authorized capital over \$100,000 and not over \$300,000 | 100 |
| On authorized capital over \$300,000 and not over \$500,000 | 200 |
| On authorized capital over \$500,000 and not over \$1,000,000 | 300 |
| On authorized capital over \$1,000,000 and not over \$2,000,000 | 500 |
| On authorized capital over \$2,000,000..... | 600 |

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to fees for filing certified statement for registration and annual franchise taxes.

(b) Registration fees

Paid to the Secretary of State: Filing certified statement for registration, \$1.

(c) Annual franchise taxes

Same as domestic corporations. See item 9 (c), above.

This tax is imposed "upon every agent or representative of any foreign nonresident corporation, said agent or representative having a place of business or office in this state: * * * Provided, that if such foreign or nonresident corporations shall pay to the Comptroller General of this state the amount of the occupation or license tax prescribed as per said schedule, * * * then such agents of foreign or nonresident corporations shall be relieved from said occupation tax. And to this end said foreign corporations shall register their names, capital stock and the names of their agents with the Comptroller General at the beginning of each year, and upon said license or occupation tax being paid, it shall be the duty of the Comptroller General to furnish said corporation a certificate or duplicate receipt for each agent that said tax has been paid, and the presentation of such certificate or duplicate receipts by such agent to the tax collector of his county shall be sufficient evidence of such payment and authorize the agent to be relieved of said tax."

11. Taxation of trusts and beneficiaries

Under Georgia laws a person sui juris can have no trust estate. Where there is a trust for the benefit of a minor or person who is not sui juris for any reason, the trustee makes the return and pays the taxes out of the trust estate.

IDAHO

(Revised to May 15, 1922)

1. General features of tax system

Idaho depends principally for state, county, and local revenues on the general property tax. There is an inheritance tax, both direct and collateral. The state has a general corporation tax, based on capital stock, and shares in the license taxes collected locally. The state is still in receipt of considerable sums each year from the sale of public lands for the benefit of the general school and various other endowment funds.

The valuation of all public utilities for taxing purposes is determined by the State Board of Equalization.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Corporation Laws of the state of Idaho may be obtained from the Secretary of State.

3. State taxing officials

Tax Commissioner, Boise, Idaho.

4. Income tax

There is no income tax in Idaho.

5. General property tax

(a) Base

All property in the state, not exempt by law, including equities in state lands sold, is subject to this tax.

"Real property" includes the possession of, claim to, ownership of, or right to the possession of land (but possession claims are exempt), mines, minerals, and quarries. *"Improvements"* include buildings, structures, and the like, and fruit and nut bearing and ornamental trees and vines.

"Personal property" includes everything subject to ownership, not included above. Shares of stock in Idaho corporations are not taxed, but property of the corporation is taxed.

(b) Exemptions

In addition to public property, all property used for school purposes; churches, chapels, and other buildings belonging to any church organization; benevolent hospitals; public cemeteries; property of resident widows and orphans and Union soldiers and sailors, to the amount of \$1,000, when total assessment does not exceed \$5,000; growing crops; libraries; tools, farming implements, and machinery to the amount of \$400; mortgages; mining claims, not patented; improvements on land, not exceeding \$200 in value.

(c) Assessment

The property is to be assessed as its full cash value; land and improvements thereon are considered separately. Lands are further classified as agricultural, timber, cut-over, burnt-over, mineral, grazing, and waste lands, and city and town lots, and the two latter are further classified as business and residence lots. The property is really assessed at about 40 per cent. of the amount at which it is listed, and to this 40 per cent. assessed value the rate is applied. The listing refers to the second Monday in January and the rolls are to be completed by the 1st day of July. Each taxpayer is to furnish under oath a list of his property. Values given by taxpayers, however, are not binding on the assessor. Refusal to make a

statement deprives the taxpayer of all rights before the county board of equalization. In assessing solvent credits, debts due bona fide residents of the state may be deducted. Shares of stock in state and national banks are assessed to the owners where the bank is located. Taxes thereon may be paid by the bank.

(d) Rate

There is no state rate, strictly speaking. The law requires that the amount to be raised by ad valorem taxes for state purposes shall be apportioned to the counties on the basis of the assessed valuation, and the share of each county levied by the county authorities with, and as if, a part of the county taxes. The apportionment is made by the State Board of Equalization.

(e) Collection

Real property taxes may be paid in two equal installments. Real property taxes are collected by the county treasurer, who is ex officio tax collector. Personal property taxes are collected by the county assessor. Taxes become a lien on the property of the taxpayer on the second Monday in January, and are due and payable between the fourth Monday in November and the fourth Monday in December next thereafter, without penalty. Unpaid first installment taxes become delinquent on the 4th Monday in December, after which date 6 per cent. penalty is added, and on this amount 1 per cent. per month interest is charged until paid. If the first installment is paid before the fourth Monday in December, the second installment may run until the fourth Monday in June next thereafter, without penalty or interest; but, if not paid before said fourth Monday in June, 6 per cent. penalty is added, and on this amount 1 per cent. per month interest is charged

from the preceding January until paid. The tax collector must, prior to the fourth Monday in November, mail to each taxpayer at his last known address a notice showing assessed value of his property and in separate amounts the amount of the taxes due on said property for the state, the county, and the various taxing districts. When personal property is assessed, and the taxpayer has not enough realty to insure the collection of the tax, the assessor may collect the tax on the personal property at the time of the assessment thereof. If the assessment on personal property is made before the levies have been ascertained, then the assessor may use the levies for the preceding year in determining the amount of tax to collect.

7. Inheritance taxes

(a) General scope and rates

All property which shall pass, by will or by the intestate laws of this state, from any person who may die seized or possessed of the same while a resident of this state, or if such decedent was not a resident of the state at the time of death, which property, or any part thereof, shall be within this state, or any interest therein, or income therefrom, which shall be transferred by deed, grant, sale, or gift, made in contemplation of death, or intended to take effect in possession or enjoyment after such death, is subject to an inheritance tax, to be paid to the treasurer of the proper county for the benefit of the general fund of the state. The tax shall be a lien upon the estate until paid, and shall be based upon the market value of such property. All property transferred to societies, corporations, and institutions exempted from taxation, or which are devoted to charitable, benevolent, or educational purposes, is exempt from this tax. The rates and further exemptions are as follows:

Property passing to husband, wife, lineal issue, lineal ancestor, adopted child, mutually acknowledged child, or lineal issue of adopted or acknowledged child, at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 3 per cent. on amount over exemption over \$500,000. The exemption is \$4,000 to members of this class, except wife and minor child, where the exemption is \$10,000. Brother, sister, descendants thereof, wife of son, widow of son, or husband of daughter, at rates ranging from 1½ per cent. on amount over \$2,000 to \$25,000 to 4½ per cent. on amount over \$2,000 over \$500,000. Brother of father or mother, sister of father or mother, and descendant of brother or sister of father or mother, at rates ranging from 3 per cent. on amount over \$1,500 to \$25,000 to 9 per cent. on amount over \$1,500 over \$500,000. Brother or sister of grandfather or grandmother, or descendant thereof, at rates ranging from 4 per cent. on amount over \$1,000 to \$25,000 to 12 per cent. on amount over \$1,000 over \$500,000. All others, at rates ranging from 5 per cent. on amount over \$500 to \$25,000 to 15 per cent. on amount over \$500 over \$500,000.

The property of nonresidents within the state is subject to tax at the same rates as property of residents.

(b) Official in charge of administration and collection

Attorney General, Boise, Idaho.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death; 5 per cent. discount is allowed, if paid within 6 months. If not paid within one year, interest at rate of 18 per cent. is added from date of death, which may be reduced to 6 per cent. on extension of term of payment by court order.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual license taxes noted below.

(b) Organization taxes

Fees to county recorder:

| | |
|---------------------------------------|--------|
| Filing articles of incorporation..... | \$.50 |
| Recording (20¢ per folio), about..... | 3.00 |

Fees to Secretary of State:

Filing articles of incorporation:

| | |
|------------------------------------|----------|
| On capital not over \$25,000..... | \$ 10.00 |
| Over \$25,000 to \$50,000..... | 20.00 |
| Over \$50,000 to \$100,000..... | 40.00 |
| Over \$100,000 to \$500,000..... | 60.00 |
| Over \$500,000 to \$1,000,000..... | 100.00 |
| Over \$1,000,000..... | 150.00 |

| | |
|-------------------------------------------------------------------------------|------|
| Recording articles of domestic corporation (20 cents per folio) about..... | 3.00 |
| Issuing certificate of incorporation..... | 3.00 |

(c) Annual license tax

License tax is payable on the 1st day of July of each year to the Secretary of State. This tax is based on the authorized capital and is as follows:

| | |
|----------------------------------------|----------|
| \$5,000 or less..... | \$ 10.00 |
| \$5,001 to \$10,000, inclusive..... | 12.50 |
| \$10,001 to \$25,000, inclusive..... | 15.00 |
| \$25,001 to \$50,000, inclusive..... | 22.50 |
| \$50,001 to \$100,000, inclusive..... | 37.50 |
| \$100,001 to \$250,000, inclusive..... | 52.50 |
| \$250,001 to \$500,000, inclusive..... | 75.00 |

| | |
|--------------------------------------------|--------|
| \$500,001 to \$1,000,000, inclusive..... | 90.00 |
| \$1,000,001 to \$2,000,000, inclusive..... | 130.00 |
| \$2,000,001 or more..... | 150.00 |

Insurance and express companies are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual license taxes.

(b) Entrance fees

The entrance fees are the same as those imposed on like domestic corporations, as noted above.

(c) Annual license taxes

The annual license taxes are the same as those imposed on domestic corporations, as noted above. If qualifying between July 1st and September 30th, the corporation must pay the full amount of the tax; when qualified between October 1st and December 31st, three-fourths of the tax; between January 1st and March 31st, one-half of the tax; between April 1st and July 1st, one fourth of the tax—for the full year.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in the hands of holders are exempt from taxation to the extent that the property represented by such shares are assessed in the state.

ILLINOIS

(Revised to May 15, 1922)

1. General features of tax system

The Constitution prescribes a general property tax for state, county, and municipal purposes, and also authorizes the taxation of certain occupations, franchises, and privileges.

Corporations are generally taxed in the same manner as individuals. But domestic corporations are also taxed on the excess of their capital stock above the value of their tangible property. All such corporations, except manufacturing, coal-mining, newspaper publishing, and stock-breeding corporations are assessed on the excess by the Tax Commission. Those excepted are assessed by the local assessors. The poll tax is used solely for road district purposes.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Revenue Laws and Amendments, 1919, may be obtained by addressing the Tax Commission; also, Illinois Transfer Tax Law, by addressing the Attorney General, Springfield, Illinois.

3. State taxing officials

Tax Commission, Springfield, Illinois.

4. Income tax

There is no income tax in Illinois, but a constitutional convention recently adopted a proposal for a general income tax, stating that, if the General Assembly makes such a tax pro-

gressive, "the highest rate shall not exceed three times the lowest rate."

5. General property tax

(a) Base

The following classes of property are included:

All real and personal property in the state, except that which is specifically exempted, is subject to ad valorem taxation; all moneys, credits, bonds, or stocks, and other investments, the shares of stock of incorporated companies and associations, other personal property, including property in transit to or from the state, used, held, owned, or controlled by persons residing in the state; shares of capital stock of banking companies doing business in the state; capital stock of domestic companies, with a few exceptions. Shares of stock in foreign corporations are taxable at the residence of the owner in Illinois under the general property tax laws, where the capital stock or tangible property of the corporation is not assessed in this state, but in the state of its creation. *Greenleaf v. Board of Review*, 184 Ill. 226, 56 N. E. 295, 75 Am. St. Rep. 168. The net receipts of foreign fire, marine, and inland navigation insurance companies, are taxed as property is taxed.

(b) Exemptions

In addition to all public property, are:

All property of institutions of learning or of purely public charity; all church property, actually and exclusively used for church purposes, cemeteries, and free public libraries; all property used by societies for agricultural, horticultural, mechanical, and philosophical purposes, when not used for pecuniary profit; property of the fire department.

(c) Assessment

In general, there is but one assessment for state, county, and municipal purposes, and that is made by the town and district assessors, or, in counties not under township organization, by the county assessor, or, when made by any other body, as in a few instances by the Tax Commission, it is apportioned to the towns and districts as if so made. The assessment depends very largely upon the sworn statement or list made by the taxpayer, who is required to list his property at its full cash value. But the "assessed value" fixed by the assessor is only one-half of the full value. Property is assessed as of the 1st day of April. Real estate is assessed over every four years. But the "general assessment" so made is corrected annually for changes prior to April 1. The sum secured by a mortgage is taxable as a credit of the mortgagee. Personal property is assessed annually. Owners of real estate are required to list their property, but the value is determined by the assessor on "actual view." Owners of personal property are required to list the same at its fair cash value and swear to the list and value, but the law further requires that the assessor shall determine the fair cash value; only one-half of the full value is assessed. With certain exceptions, personal property is assessed in the town, city, village, district, or county where the owner resides. The penalty for refusal to make out a list or swear to it is a fine of not more than \$200, and the assessed value is increased 50 per cent. All corporations organized under the laws of the state, except companies for purely manufacturing purposes, or for the mining and sale of coal, or for printing, or for publication of newspapers, or for the improving or breeding of stock, which excepted companies are assessed by the local assessors, and except the Illinois Central Railroad Company,

not subject to the general property tax, and railroad, telegraph, and telephone companies assessed by the Tax Commission, and banks and insurance companies generally, are assessed as follows: First, by the local assessors on the value of their tangible property; second, by the Tax Commission on the excess in the value of their capital stock, including the franchise, over that of their tangible property. Shares of stock of foreign corporations are assessed to the shareholder at his residence. Shares in state and national banks are assessed to the shareholders where the bank is located, less deductions for real estate. Mutual building and loan associations' stock, either domestic or foreign, is assessed to the stockholders at their place of residence. In determining the value of the stock, the value of the real estate is first deducted. Banks other than state or national are taxed on their moneys, personal property, credits, bonds, and stocks, less deposits and other accounts payable. Franchises granted by the state are to be listed as personal property.

(d) Rate

The rate per cent. required to produce the amount of taxes levied by the General Assembly is to be ascertained annually by the Governor, Auditor, and Treasurer. The amount of taxes is extended by the county clerk on the assessed value of property as equalized by the Tax Commission. Separate rates are certified for the "revenue fund," the "interest fund," the "state school fund," and other funds.

(e) Collection

In general, all taxes—state, county, and municipal—are collected by the same collectors. In counties having township organization, this is done by the township collectors, except in Cook county, where the county treasurer is ex officio tax

collector; in other counties by the sheriff, who is *ex officio* collector, except that in counties under township organization railroad taxes are paid directly to the county treasurer, who is made *ex officio* tax collector for that purpose. Personal property taxes may be collected by distress and sale of goods and chattels. Taxes are due and payable when demanded by the collector, who receives a warrant for the collection thereof on or before January 2 following the year in which taxes are levied. Taxes on real estate become delinquent March 10 in the year following the assessment, and the land may be sold for taxes after publication of the proper notice and obtaining judgment and order of sale at the June term of the county court. Taxes become a lien upon real property May 1 of the year in which the taxes are levied. Interest is charged from May 1, after the taxes become delinquent.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real, personal, or mixed, or of any interest therein or income therefrom, in trust or otherwise, to persons, institutions or corporations, not hereinafter exempted, in the following cases:

1. When the transfer is by will or by the intestate laws of the state, from any person dying, seized or possessed of the property, while a resident of the state.

2. When the transfer is by will or intestate laws of property within the state, and the decedent was a nonresident of the state at the time of his death.

3. When the transfer is of property made by a resident, or by a nonresident when such nonresident's property is within this state, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or

intended to take effect in possession or enjoyment at or after such death. When any such person, institution, or corporation becomes beneficially entitled in possession or expectancy to any property or income therefrom, by any such transfer, whether made before or after the passage of this act.

4. Whenever any person, institution, or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment, when made, shall be deemed a taxable transfer, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a taxable transfer shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

5. Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositories in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons the right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer taxable in the same manner as though the whole property to which such transfer relates was owned by said parties as tenants in common and had been

bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will.

When the beneficial interest to any property or income therefrom shall pass to or for the use of any father, mother, lineal ancestor, husband, wife, child, brother, sister, wife of son, widow of son, husband of daughter, adopted child, mutually acknowledged child, or lineal descendant born in lawful wedlock, at rates ranging from 2 per cent. on amount over exemption to \$50,000 to 14 per cent. on amount over exemption over \$500,000. The exemption to members of this class is \$20,000, except brother and sister, who receive an exemption of \$10,000. Uncle, aunt, niece, nephew, or lineal descendant of uncle, aunt, niece, or nephew, at rates ranging from 6 per cent. on first \$20,000 above exemption of \$500 to 16 per cent. on amount over \$170,000, above exemption of \$500. All other cases, at rates ranging from 10 per cent. on first \$20,000 above exemption of \$100, to 30 per cent. on amount over \$250,000 above exemption of \$100. Property passing for hospital, religious, educational, Bible, missionary, tract, scientific, benevolent, or charitable purposes is entirely exempt. The exemption to religious, educational, and other eleemosynary organizations does not extend to nonresident institutions of that character. All property of nonresidents within the state, including stock of domestic corporations owned by nonresidents, is taxable at same rates as property of residents.

(b) Official in charge of administration and collection
Attorney General, Springfield, Ill.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death, but payment on a remainder interest may be postponed on furnishing bond for payment; 5 per cent. discount is allowed if paid in 6 months; if not paid in 6 months, interest at 6 per cent. is added from date of death.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, to organization taxes, and to a capital stock tax, noted below.

(b) Organization taxes

Fee for organization under the General Corporation Act is one-twentieth of 1 per centum upon the amount of the capital stock which the corporation is authorized to have, with a minimum fee of \$20.

Fee to recorder of deeds: Recording certificate of complete organization, in Cook county at rate of 6 cents per 100 words, plus 25 cents for certificate of record—from \$2 to \$4.

(c) Annual license fee or franchise tax

Each corporation for profit, including railroads, but excepting insurance companies, admitted to do business in this state and required to make an annual report, shall pay an annual license fee or franchise tax to the Secretary of State of 5 cents on each \$100 of the proportion of its authorized capital stock, authorized by its charter in the office of the Secretary of State, represented by business transacted and property located in the state, but in no event shall the amount of such license fee or franchise tax be less than that required by corporations having no tangible property or business in the state.

In case it appears from the annual report that the corporation has no tangible property located in the state, and is transacting no business in the state, the following fees shall be paid annually to the Secretary of State as an annual franchise tax: All such corporations having a capital stock of \$50,000 or less shall pay an annual fee of \$10; corporations having a capital stock of more than \$50,000, but not exceeding \$200,000, shall pay an annual fee of \$15; corporations having a capital stock of more than \$200,000, but not exceeding \$500,000, shall pay an annual fee of \$20; corporations having a capital stock of more than \$500,000, but not exceeding \$1,000,000, shall pay a fee of \$50; corporations having a capital stock of more than \$1,000,000, but not exceeding \$10,000,000, shall pay a fee of \$200; and all corporations having a capital stock in excess of \$10,000,000 shall pay an annual fee of \$1,000.

In the event that the corporation has stock of no par value, its shares, for the purpose of fixing such fee, shall be considered to be of the par value of \$100 per share.

10. Foreign corporation taxes .

(a) In general

Foreign corporations are subject to general property taxes as above on property located in the state and to entrance fees and annual franchise taxes.

(b) Entrance fees

Fees to the Secretary of State:

Initial fee, one-twentieth of 1 per centum upon the proportion of authorized capital stock represented by business transacted and tangible property located in Illinois; in no case less than \$20. If a foreign corporation has a capital stock of no par value, its shares, for the purpose of estimating the amount

of fees and taxes to be paid hereunder, shall be considered to be of the par value of \$100 per share.

(c) Annual license or franchise taxes

The annual franchise tax (see 9[c] above) must be paid on entering the state as follows:

If a corporation is admitted to do business in the state—

(1) Between March 1, 1920, and July 1, 1920, a franchise tax for one and one-third year.

(2) Between July 1st of any year (after the year 1919) and September 30th of the same year, a franchise tax equal to the full amount of the annual franchise tax.

(3) Between October 1st of any year (after the year 1919), and December 31st of the same year, a franchise tax equal to three-fourths of the annual franchise tax.

(4) Between January 1st of any year and the last day of February of the same year, a franchise tax equal to one-half of the annual franchise tax.

(5) Between March 1st of any year (after the year 1920) and June 30th of the same year, a franchise tax equal to one-third of the annual franchise tax.

The word "between," as used in this section, shall include both dates specified.

Fees to county recorder:

For recording certificate of authority, 10 cents per 100 words, plus 25 cents for certificate of recorder.

(d) Tax against owner of stock in foreign corporations

Such shares are taxable at the residence of the owner in Illinois when the capital stock or tangible property of the corporation is not assessed in Illinois. *Greenleaf v. Board of Review*, 184 Ill. 226, 56 N. E. 295, 75 Am. St. Rep. 168.

11. Taxation of trusts and beneficiaries

Trust property, under the general property law, is taxable against the trustee substantially as if he were the owner. In so-called common-law trusts, the property would be taxable, according to the Attorney General, the same as partnership property.

INDIANA

(Revised to May 15, 1922)

1. General features of tax system

Indiana depends mainly upon the general property tax. This tax has substantially the same form as in other states; but there are radical differences in the administration, which distinguish the so-called "Indiana system" from that of other states. These distinguishing features are:

(1) A State Tax Commission, with full direction and supervising powers over the local assessors.

(2) A county assessor in each county, responsible to the Tax Commissioners, exercising supervisory authority over the township assessors, and with power to make assessments where the local assessors fail to do so.

(3) A regular system of conferences, at which assessment officers agree upon the policy to be followed. The provisions of the law are minute and detailed in the extreme, and it is in the attention to detail rather than in difference in principle that the characteristics of the system are to be found. But these details do not lend themselves to classification, and cannot be shown in the following abstracts. Another feature of the Indiana system is that it places the collection of all taxes—state, county, and municipal—in the hands of one person, the county treasurer, thus bringing all the taxes levied on one person together as one bill.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the tax laws of Indiana, and of the law relating to the assessment and taxation of property, also copy of Inheritance Tax Act, may be obtained by addressing the State Board of Tax Commissioners, Indianapolis; also pamphlet copies of Indiana Private Corporations, containing the tax law with respect to corporations, may be obtained from the Secretary of State, Indianapolis.

3. State taxing officials

State Board of Tax Commissioners, Indianapolis, Indiana.

4. Income tax

There is no income tax in Indiana.

5. General property tax

(a) Base

All property within the jurisdiction of the state, not expressly exempted, is subject to taxation. Property is classified for purposes of taxation, as follows:

"Real property," which includes all land within the state, and all buildings and fixtures; "railroad track," including the right of way, stations, and improvements, except machinery, stationary engines, and other fixtures, which are considered personal property.

"Personal property" which includes all goods and chattels within the state; all ships and vessels, at home or abroad, owned in the state; all goods, etc., outside the state, but owned by the inhabitants, except property permanently invested in another state; all credits, less debts; all shares in corporations, not exempt, unless the corporation is itself taxed on all its property; shares in national banks, less the value of real

estate as carried in the statement of assets in the capital account, taxed to the bank; all shares in foreign corporations, except national banks; all moneys (except money in bank is a credit); all annuities and royalties; all interest owned by individuals, in lands the fee of which is in the United States; railroad rolling stock; franchises granted by the law of the state and used by any person or corporation; the mains, pipes, and wires of gas, electric light, and waterworks companies.

(b) Exemptions

(1) Property of the United States and of the state.

(2) The property of any county, city, town, or township.

(3) All bonds, notes, and other evidences of indebtedness hereafter issued by the state of Indiana or by municipal corporations within the state, upon which the said state or the said municipal corporations pay interest, shall be exempt from taxation.

(4) That all bonds hereafter authorized by any county or township in the state of Indiana, for the purpose of building, constructing, and paying for the construction of any free gravel, macadamized, or other improved roads, shall be exempt from taxation: Provided, said bonds shall not bear a greater rate of interest than 5 per cent. per annum, payable semi-annually.

(5) All bonds and other evidences of indebtedness hereafter issued by or in the name of any municipality or other political or civil subdivision of the state of Indiana, or by or in the name of any taxing district in the state of Indiana, for the purpose of paying the cost of acquisition, construction, improvement, or maintenance of streets, highways, drains, levees, parks, docks, waterways, boulevards, playgrounds, bridges, sewage disposal plants, and other improvements of public bene-

fit, and which bonds or other evidences of indebtedness are payable from special assessments or special taxes, shall be exempt from taxation, unless otherwise expressly provided in this section.

(6) Property used for schools, or public worship; cemeteries; property owned by Y. M. C. A., Knights of Columbus, Young Men's Hebrew Association, Young Women's Christian Association, literary, scientific, benevolent, and charitable institutions, fraternal beneficiary associations; one acre of land to Greek letter fraternities, etc.

(c) Assessment

In general, there is but one assessment for the property tax for state, county, and municipal purposes. Most property is assessed by the township assessors, who work under the immediate supervision of the county assessors, who have power to list property omitted, and the county assessors in turn are under the direction of the State Board of Tax Commissioners. In general, property is assessed on the basis of sworn statements returned to the assessors by the taxpayers, but the property of railroad, telegraph, and certain other corporations is assessed by the State Board of Tax Commissioners, and the amount is apportioned among the counties in which the property is situated. Very heavy penalties, ranging from \$10 to \$5,000, or six months in jail and 50 per cent. increased assessment, are provided for returning false lists or for refusal to swear to lists. Real estate is assessed but once every four years, and the assessment is revised annually for additional improvements and other changes. All other property is assessed annually. The assessment refers to the 1st of March. Personal property is generally assessed where actually located, and not where the owner resides. Land is to be valued

by the assessor at the price it would bring at private sale, and not at a forced or sheriff's sale. The same rule applies to personal property. Private bankers and brokers are assessed upon their real estate and the excess of their credits over their debts and deposits.

State, private, and national banks, except savings banks, are assessed upon their real estate, only the shares being taxable at market value, or, if there is no market value, at book value, less the value of the real estate. The assessment is made to the shareholders at the place where the bank is located, and the bank officers are required to furnish the names and residences of the stockholders.

Corporations in general, except as shown below, are assessed the same as individuals on all corporate property, including corporate stock and franchises. Corporate taxation is thus a part of the general property tax system of the state. Shares in corporations, all the property of which is taxable, are not assessed to the shareholder. Every franchise is to be listed and assessed as personal property. The county board of review values and assesses the capital stock and all franchises and privileges of domestic corporations, (including savings banks), unless otherwise provided. The capital stock is listed for taxation at its excess of value over franchises and tangible property.

(d) Rate

The rate for state taxation, expressed in cents upon each \$100, valuation for state expenditures, is fixed by the Legislature.

The State Board of Tax Commissioners has the power "to determine and fix, with the approval of the Governor and Auditor, any and all tax rates and levies for raising the state revenue fund, state tuition fund, state benevolent fund, state

highway fund and all other state funds for which appropriations have been or may be made by general or specific appropriation laws and for the raising of which no levies have been made by law: Provided, however, that all levies made by law prior to March 11, 1919, are hereby repealed. Provided, further, that such repeal shall not release or cancel any taxes accrued under such levies and such levies shall remain in force for computation of taxes on property omitted from assessments heretofore made." Clause 6 of section 177.

Sections 200 and 201, as amended, give the State Tax Board appellate power over the issuing of bonds and tax levies. The law as passed in 1919 gave the State Board the right on its own initiative to reduce levies, when in its opinion more money was about to be collected than is needed for economically administering the government. By virtue of that authority the levies were greatly reduced, but this power was taken away from the Board by the special session of 1920.

The increased levies by the local authorities were so enormous that the last regular session of the Legislature again placed the authority with the Board on complaint of ten or more taxpayers. In other words, the State Board becomes an appellate body, to which the local taxpayers, numbering ten or more, may appeal for a review of their tax levies or bond issues and in this way the taxpayers can check reckless expenditures and prevent unnecessary tax levies.

(c) Collection

All taxes on property, whether for state, county, school, road, or other purposes, are collected by the county treasurer. One-half the taxes, including all the road tax, is to be paid on or before the first Monday in May; the remainder by the first Monday in November. Taxes become a lien on

all real estate from the 1st of March, and continue for 10 years, and such lien is a state lien, and is for all taxes—state, county, school, road, or township. The penalty for delinquency in the payment of any installment of taxes is an addition of 10 per cent. and a further penalty of 6 per cent., if not paid before the next installment is due. If not paid on January 1 after two years from the beginning of such delinquency, the taxes bear interest at 6 per cent. in addition to former penalties for delinquency.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer of property, real, personal, or mixed, or any interest therein or income therefrom, in trust or otherwise, to any person, association, or corporation, in the following cases:

1. When the transfer is by will or by the intestate laws of this state, of any intangible property, or of tangible property within this state, from any person dying seized or possessed thereof while a resident of the state.

2. When the transfer is by will or intestate law, of tangible or intangible property within the jurisdiction of this state, and the decedent was a nonresident of the state at the time of his death.

3. Whenever the property of a resident decedent, or the property of a nonresident decedent within the jurisdiction of this state, transferred by will, is not specifically bequeathed or devised, such property shall, for the purposes of this article, be deemed to be transferred proportionally to and divided pro rata among all the general legatees and devisees named in said decedent's will, including all transfers under a residuary clause of such will.

4. When the transfer is of intangible property, or of tangible property within the state, made by a resident, or of tangible property within the state made by a nonresident, by deed, grant, bargain, sale, or gift, made without valuable and adequate consideration in money or money's worth to the full value of the property transferred, in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death: Provided, that any conveyance, gift, or transfer made within two years of the death of any decedent, without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death.

5. When any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer, whether made before or after the passage of this act.

6. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed by such donee by will.

7. Whenever property is held in the joint names of two or more persons, or is deposited in banks, or other institutions or depositories (depositories), in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons, the exercise of the right of the surviving person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this act, in the same

manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint owner or joint depositor, and had been devised or bequeathed to the surviving person or persons, by such deceased joint owner or joint depositor by will, excepting therefrom such part thereof as may be proved by the surviving joint owner or joint owners to have originally belonged to him or them, and never to have belonged to the decedent.

8. The tax so imposed shall be upon the market value of such property at the rates hereinafter prescribed, and only upon the excess of the exemptions hereinafter granted.

Property passing to husband, wife, lineal issue, lineal ancestor, legally adopted child, mutually acknowledged child, or lineal issue of adopted or mutually acknowledged child, at rates ranging from 1 per cent. over amount of exemption to \$25,000 to 4 per cent. on amount over exemption over \$300,000. The exemption in this class is \$2,000, except in case of wife, when the exemption is \$15,000, and children under 18, when the exemption is \$5,000.

Brother, sister, descendant of brother or sister, wife of son, widow of son, or husband of daughter, at rates ranging from 2 per cent. on amount over \$500 to \$25,000 to 8 per cent. on amount over \$500 over \$300,000. Brother or sister of father or mother, or descendants thereof, at rates ranging from 3 per cent. on amount over \$250 to \$25,000 to 12 per cent. on amount over \$250 over \$300,000. Brother or sister of grandfather or grandmother, or descendants thereof, at rates ranging from 4 per cent. on amount over \$150 to \$25,000 to 16 per cent. on amount over \$150 over \$300,000.

Other persons or corporations, at rates ranging from 5 per cent. on amount over \$100 to \$25,000 to 20 per cent. on amount over \$100 over \$300,000.

Property passing for county, town, municipal, educational, religious, or charitable purposes within the state, is entirely exempt from taxation.

Tangible and intangible property of nonresidents within the state is taxable at same rates as property of residents. The words "intangible property within the jurisdiction of the state," as used in the act, shall be taken to include shares of stock of corporations of the state and of national banking institutions located in the state.

The tax does not apply to the estates of soldiers and sailors, when such estates are less than \$25,000, and death resulted while serving in the military or naval forces during the war, or within one year after termination of such war, from injuries received or disease contracted in such service.

(b) Official in charge of administration and collection

State Board of Tax Commissioners, Indianapolis, Indiana.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer. Discount of 5 per cent. allowed, if paid within one year; after 18 months, 10 per cent. from due date is added, reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

Filing articles of association—on authorized capital of \$10,000 or less, \$10; over \$10,000, one-tenth of 1 per cent. on the entire authorized capital.

Recording articles, not over 200 words, \$1; 10 cents for each additional 100 words.

Fee to recorder of deeds:

Filing articles of association, \$1.

Fee to clerk of circuit court:

Filing certificate of payment of capital, 50 cents.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance taxes, noted below.

(b) Entrance fees

Upon the proportion of its stock represented by its property and business in Indiana, a fee of \$25 on the first \$10,000 or under, and one-tenth of 1 per cent. additional on all amounts in excess of \$10,000. Certificate of authority, 50 cents.

(c) Annual franchise taxes

There are no annual fees or taxes, except fee of \$1 to Secretary of State for filing annual report in January.

(d) Taxes against owner of stock in foreign corporations

Stock of a foreign corporation owned by a citizen of Indiana may be taxed against him in the township where he resides. *Seward v. Rising Sun*, 79 Ind. 351. In fact, the declaration of the statute (section 10142, Burns' R. S. 1914) that all property not expressly exempt shall be subject to taxation covers shares of the capital stock of both foreign and domestic corporations. *Hasely, Executor, v. Ensley, Treasurer*, 40 Ind. App. 598, 82 N. E. 809.

Special provision is made with respect to shares owned by residents of Indiana in foreign corporations, all or a part of

whose manufacturing is done in Indiana, to the effect that such shares "shall be assessed for taxation at a value which shall be determined and fixed by deducting from the value of all of the shares of stock of such corporation that may have been issued and be outstanding at the time of their assessment, such a per centum thereof as the value, for taxable purposes, of its tangible property within this state [Indiana] may be of the value, for taxable purposes, of all its tangible property wherever situated." The board of tax commissioners may call for the necessary information on blanks furnished by them and served upon the principal officer of the corporation in Indiana. "Any owners of such shares of stock who may fail to list the same with the assessors shall not be entitled to the benefits of this section, but the shares shall be taxed to him at their actual value."

11. Taxation of trusts and beneficiaries

Property held in trust is usually assessed to the trustee. The law provides (section 10160, Burns' R. S. 1914): "Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent, except as otherwise by law provided, in the township, town or city in which such trustee or agent resides."

IOWA

(Revised to May 15, 1922)

1. General features of tax system

Iowa depends almost entirely upon the general property tax for state, county, and municipal revenues. There is an inheritance tax, but no special corporation taxes, except on foreign insurance companies. Corporations generally are assessed by local assessors. A few are assessed on their property by the State Executive Council. Changes of late years have been from taxes on gross revenue to those on property.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Revenue Laws, 1921, may be obtained from the Auditor of State, Des Moines; also, pamphlet copy of the Corporation Laws, 1921, is issued by the Secretary of State, Des Moines, Iowa. Pamphlet copy of the Inheritance Tax Law may be secured from the Treasurer of State.

3. State taxing officials

Executive Council of Iowa, Des Moines, Iowa. Corporation matters are handled through the Secretary of State's office, and collateral inheritance tax matters are handled through the Treasurer of State's office.

4. Income tax

There is no income tax in Iowa.

5. General property tax

(a) Base

All real and personal property not specifically exempt is subject to this tax.

There are no special definitions of real and personal property for purposes of taxation. Ferry franchises and toll bridges are defined as real estate. Mortgages are taxable, and no deduction is allowed on that account from the assessed value of the land. Credits, moneys, annuities, bank notes, and shares of stock in corporations not otherwise taxed are all taxable. Debts may be deducted from the total of moneys and credits.

(b) Exemptions

(1) Public property, and property used for educational, cemetery, charitable, benevolent, religious, literary, library, scientific, etc., purposes is exempt.

(2) Mortgages held by nonresidents.

In the assessment of farm lands a reduction that is called an exemption is made from the valuation of the farms equal and proportionate to the area of roads adjacent to such lands.

(c) Assessment

All property subject to taxation is required to be listed at its actual value, which is defined as "the value in the market in the ordinary course of trade." The property is then assessed for taxation at 25 per cent. of such actual value, except that moneys, credits, and corporation shares or stocks, except as otherwise provided, cash, circulating notes of national banking associations, and United States legal tender notes, and other notes and certificates of the United States payable on demand, and circulating, or intended to circulate, as currency, notes, including those secured by mortgages, accounts,

contracts for cash or labor, bills of exchange, judgments, choses in action, liens of any kind, securities, debentures, bonds other than those of the United States, annuities, and corporation shares or stocks not otherwise taxed in kind, shall be entered and assessed at the actual value thereof, and taxed upon the uniform basis throughout the state of five mills on the dollar of actual valuation, same to be assessed and collected where the owner resides, and except that state, savings, and national bank stock and loans, and trust company stock and moneyed capital used in competition with bank capital, shall be listed at its actual value and shall be assessed and taxed upon the taxable value of 20 per cent. of the actual value thereof.

Shares of stock of national banks, state and savings banks, and loan and trust companies, located in this state, shall be assessed to the individual stockholders at the place where the bank or loan and trust company is located. At the time the assessment is made, the officers of national banks and state and savings banks and loan and trust companies shall furnish the assessor with lists of all the stockholders and the number of shares owned by each, and the assessor shall list to each stockholder under the head of corporation stock the total value of such shares. In arriving at the total value of the shares of stock of such corporations, the amount of their capital actually invested in real estate owned by them and in the shares of stock of corporations owning only the real estate (inclusive of leasehold interests, if any), on or in which the bank or trust company is located, shall be deducted from the real value of such shares, and such real estate shall be assessed as other real estate, and the property of such corporation shall not be otherwise assessed. Real estate is listed only once every two years, in the odd year. In the even-numbered

years the assessment roll is corrected by adding the value of the improvements made during the preceding year.

Personal property is assessed annually. Merchants and manufacturers are assessed upon the average amount of stock held during the year. Grain, ice, and coal dealers are assessed on the average amount of capital used. When corporations are taxed on their property, the shares of stock are exempt. The excess of the value of the capital stock over the value of the tangible property assessed is taxable to the company. Bank stock is assessed on the basis of capital, surplus, and undivided profits, less the value of real estate, which is assessed separately. Commission merchants, etc., having in their possession property of a foreigner for sale, are to be deemed the owners thereof for purpose of taxation. Real estate owned by corporations, returned in statements as part of their assets for purposes of taxation, is to be valued for such assessment as other real estate.

The Executive Council assesses the property of telegraph and telephone companies, railroads, freight lines, and equipment companies, express companies, etc. The aggregate actual value of moneys and credits of private banks, after deducting amount of deposits and debts, and the aggregate actual value of bonds and stocks, are to be assessed at 25 per cent. of such actual value, not including real estate.

Shares of stock of corporations, except those not organized for pecuniary profit, are to be assessed to the owners thereof at the place where its principal business is transacted; the amount of capital actually invested in real estate owned by them is to be deducted from the real value of such shares and the real estate assessed as other real estate.

Foreign corporation stock is taxable in Iowa, except in certain classes of corporations.

(d) Rate

The General Assembly fixes the total amount to be raised for state purposes. The Executive Council annually determines the rate per cent. on the valuation of the taxable property necessary to raise the amount fixed by the General Assembly. The rate so determined is levied by the county board of supervisors.

(e) Collection

Taxes are collected by the county treasurers, and are payable at any time between the first Monday in January and the 1st day of March; or one-half may be paid before March, and the remaining half before the 1st day of September. If at least half is not paid before the 1st day of April, the whole amount becomes delinquent as of March 1. In case the second installment is not paid before the 1st day of October, it becomes delinquent as of the 1st day of September. Delinquent taxes draw interest at 1 per cent. a month. Taxes are a lien on the property on which they are levied, and may be collected by distress and sale.

7. Inheritance taxes**(a) General scope and rates**

The estates of all deceased persons in any property, whether the decedents be inhabitants of the state or not, and whether such estates consist of real, personal, or mixed property, tangible or intangible, and any interest in or income from any such estate or property, which estate or property is at the death of the decedent owner within the state, or is subject to the jurisdiction of the courts of the state, or thereafter is brought within the state and becomes subject to the jurisdiction of the courts of the state, or the property of any decedent, domiciled within the state at the time of the death of such de-

cedent, even though the property of such decedent so domiciled was situated outside of the state, except real estate located outside of the state, passing in fee from the decedent owner, which shall pass in any manner herein described shall be subject to tax as herein provided. The tax imposed shall be collected upon the net market value, and shall go into the general fund of the state, to be determined as herein provided, of any property passing:

(a) By will or under the statutes of inheritance of this or any other state or country.

(b) By deed, grant, sale, gift, or transfer made in contemplation of the death of the grantor or donor, or any such deed, grant, sale, gift, or transfer made or intended to take effect in possession or enjoyment after the death of the grantor or donor.

(c) Under power of appointment hereafter exercised, whether the power was created before or after the taking effect of the act.

(d) Property which is held jointly or as tenants in the entirety by the decedent and any other person or persons, or any deposit in banks or other institution in their joint names, and payable to either or to the survivor, except such part as may be proven to have belonged to the survivor, or any interest of a decedent in property owned by a joint-stock or other corporate body, whereby the survivor or survivors become beneficially entitled to the decedent's interest upon the death of a shareholder. The tax imposed upon the passing of property under the provisions of this paragraph shall apply to property held under all such contracts or agreements, whether made before or after the taking effect of this act.

(e) When the decedent shall have disposed of his estate in any manner to take effect at his death, with a request, secret

or otherwise, that the beneficiary give, pay to, or share the property, or any interest therein received from the decedent, with another person or persons, or to so dispose of beneficial interests conferred by the decedent upon the beneficiaries that the property so passing would be taxable under the provisions of this act, if passing directly by will or deed from the decedent owner to those to receive the gift from the beneficiary, compliance with such request shall constitute a transfer taxable under the provisions of this act, at the highest rate possible in like cases of transfers by will or deed.

(1) Property passing to husband, wife, father, mother, child, or lineal descendant, adopted child, or illegitimate child entitled to inherit under state laws, at rates ranging from 1 per cent. on amount over \$15,000 to \$30,000 to 7 per cent. on amount over \$15,000 over \$300,000.

(2) All others, except aliens, nonresidents of the United States, who are brothers or sisters of the decedent owner, or are within class (1), at rates ranging from 5 per cent. on amount over exemption to \$30,000 to 7 per cent. on amount over exemption over \$300,000. When net estate exceeds \$1,000, no exemption to beneficiaries in class (2).

The beneficiaries excepted in class (2) are taxed at the rate of 10 per cent.

(3) Aliens, nonresidents of the United States are taxed at the rate of 20 per cent. Property passing for educational, religious, cemetery, charitable, hospital, and municipal purposes, maintenance of family burial lot, or for religious services within the state of Iowa, is entirely exempt. All property of nonresidents within the state is subject to the same rate of taxation as the property of residents. Property passing to those enumerated in class (1), from which an inheritance tax has been collected within two years prior to decedent's death is exempt.

(b) Official in charge of administration and collection

Treasurer of State, Des Moines, Iowa.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer. No discount; 8 per cent. is added after 18 months; if not paid within that time, which may be reduced to 6 per cent. by State Treasurer, in his discretion, to avoid hardship.

9. Domestic corporation taxes**(a) In general**

Corporations are subject to the general property taxes described above, and to organization taxes noted below. There is no annual franchise tax.

(b) Organization taxes

Fee to county recorder:

Recording articles of incorporation, first 400 words, 50 cents, and 10 cents per folio in excess, usually about \$2.50.

Fees to Secretary of State:

Issuing certificate of incorporation, \$25 on any capital up to and including \$10,000. On excess over \$10,000, the rate is \$1 per \$1,000. (Farmers' mutual co-operative creamery associations, corporations to manufacture sugar from beets grown in Iowa, and domestic building and loan associations pay a fee of \$25.00 only. Recording, 10 cents per 100 words, about \$2.50. Advertising for four weeks, about \$30.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes as above, on property in the state, and to entrance fees and taxes.

(b) Entrance fees

To Secretary of State: For filing certified copy of charter, if money and property in the state is \$10,000 or less, \$25, and \$1 on each \$1,000 in excess of \$10,000. Recording charter, 10 cents per 100 words, about \$3.

(c) Franchise taxes

There are no annual franchise taxes.

(d) Taxes against owner of stock in foreign corporations

Owner is liable under general property tax, except in a few instances.

11. Taxation of trusts and beneficiaries

Trust estates are taxable to the trustee, and not otherwise.

KANSAS

(Revised to May 15, 1922)

1. General features of tax system

Kansas depends almost entirely upon the general property tax for state, county, and municipal revenues. The poll tax is for local road purposes only. There is an inheritance tax on both direct and collateral heirs.

There is a special corporation tax on certain insurance companies, and an excise tax on express companies. Beginning in 1908, the administration of the revenue laws was placed under the absolute control of a central authority, the State Tax Commission.

2. Where pamphlet copies of tax laws, etc., may be secured

A summary of the corporation laws of Kansas, 1919, containing the taxes imposed on corporations, may be obtained by addressing the Secretary of State, Topeka, Kansas. Pamphlet copy of law relating to taxation of legacies and successions may be secured from the State Tax Commission.

3. State taxing officials

State Tax Commission, Topeka, Kansas.

4. Income tax

There is no income tax in Kansas.

5. General property tax

(a) Base

All property in the state, real and personal, not expressly exempt, is subject to taxation.

"Real property," besides the land and improvements, includes mines, minerals, quarries, mineral springs and wells, and rights and privileges appertaining thereto; but certain real estate of railroads is treated as personal property.

"Personal property" includes every tangible thing subject to ownership, not forming part of real estate; also the capital stock, undivided profits, and all other assets of every company, incorporated or unincorporated, and every share or interest in such stock, profit, or assets, provided the same is not included in other personal property subject to taxation or listed as the property of individuals; also every share or interest in any vessel or boat used in navigating any of the waters within or bordering on the state, whether such vessel or boat shall be within the jurisdiction of the state or elsewhere; and also all "property" owned, leased, used, occupied, or employed by any railway or telegraph company or corporation within the state, situate on the right of way of any railway.

(b) Exemptions

(1) All public property, churches, and schoolhouses, together with lands not in excess of 10 acres, if not used for profit. Property used for educational, religious, literary, scientific, benevolent, or charitable purposes is exempt from taxation.

(2) State, county, city, school district, and municipal bonds of the state of Kansas need not be listed for taxation.

(c) Assessment

There is but one assessment for state, county, and municipal purposes. The assessment is begun by the local assessor, and

completed or assembled by the county clerk, and refers to the 1st day of March.

With the exception of property in cities of the first and second class, which may be assessed annually, real property and improvements are assessed once in four years. Personal property is assessed annually. Every person of full age and sound mind is required to furnish the assessor a sworn list of all his property, and of all property held by him in trust, including the value, which, however, is not binding on the assessor, who is to determine the true value in money from actual view and inspection. Failing to submit a sworn statement, except in case of sickness or absence, or submitting a false statement, constitutes a misdemeanor, punishable by a fine of not less than \$50 nor more than \$5,000. It is further provided that the assessment of such persons as is returned by the assessor shall be increased 50 per cent. Refusal to be sworn or to answer questions is punishable by a fine of not over \$1,000 nor less than \$100. In the case of railroads, the penalty is \$1,000; in that of telegraph, telephone, and pipe line companies, it is \$500, and \$100 per day after March 20; and in the case of express companies, \$500, and \$100 per day after May 31. Corporations in general are assessed as are natural persons.

Shares of stock in banks, banking associations, loan and investment companies, and mutual fire and life insurance companies are listed for taxation by the officials of the company, and are taxable in the city or township where the institutions are located. Banks are allowed to deduct real estate owned and used as the banking house at its assessed valuation, provided said assessed valuation does not exceed one-third of the combined value of the capital and surplus. They also are allowed to deduct the assessed value of all real estate to which they

have a bona fide title, provided the same has not been owned for more than five years, with the same limit as to amount as applies to the banking house. Real estate owned by such companies is assessed where located, and the value thereof deducted from the capital stock assessed as above.

The shares of stock in corporations are generally not listed by the shareholders; but the companies, except as otherwise stated, are required to list their capital stock, and the excess thereof over property otherwise taxed is taxable to the company at the place where the principal office is kept. Mineral rights are assessed separately from the land, where the ownership vests in a person other than the owner of the land. Mortgages are assessed as other property. Merchants and manufacturers are assessed upon their average monthly holdings during the year, and are required to declare values only. They are allowed to deduct their average debts from their average credits. All public utilities are assessed by the State Tax Commission.

(d) Rate

The State Tax Commission determines the rate of taxation for state purposes.

(e) Collection

Taxes for state purposes, as well as township and county taxes, are collected by the county treasurers. Taxes become a lien on the property on November 1 in each year. They may be paid in two installments, one-half on or before December 20, and one-half on or before June 20; but, if the first installment is not paid when due, the whole tax becomes delinquent and may be collected at once, together with a penalty of 5 per cent. on the first installment. All taxes delinquent

after June 20 involve an additional penalty of 5 per cent. Delinquent personal taxes are collected by the sheriff by seizure and sale of property.

7. Inheritance taxes

(a) General scope and rates

All property, corporeal or incorporeal, and any interest therein, within the jurisdiction of the state, whether belonging to the inhabitants of the state or not, which shall pass by will or by the laws regulating intestate succession, or by deed, grant, or gift made in contemplation of death, or made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, absolutely or in trust, except in case of a bona fide purchase for full consideration in money or money's worth, is subject to inheritance tax.

Property passing to the wife of decedent is taxed at rates ranging from $1\frac{1}{2}$ per cent. on amount over \$75,000 to $2\frac{1}{2}$ per cent. on amount over \$500,000. Husband, lineal descendant, adopted child, lineal descendant of adopted child, wife of son, widow of son, or husband of daughter, at rates ranging from 1 per cent. on amount over \$15,000 to \$25,000 to 5 per cent. on amount over \$500,000.

Brother or sister, at rates ranging from 3 per cent. on amount over \$5,000 to \$25,000 to $12\frac{1}{2}$ per cent. on amount over \$500,000.

All others, at rates ranging from 5 per cent. on amount up to \$25,000 to 15 per cent. on amount over \$500,000. Property passing for literary, scientific, religious, educational, benevolent, charitable, state, or public purposes, is entirely exempt.

The property of nonresidents within the state is subject to same rate of taxation as the property of residents. All lega-

cies less than \$200, and all successions to shares of an estate less than \$200, are free from tax.

(b) Officials in charge of administration and collection

Inheritance Tax Commission, Topeka, Kansas.

(c) When inheritance taxes are due—Discount and penalties

Due within one year from qualification by executor or administrator, or when estate is distributed, if before that time. No discount; 6 per cent. interest is added from time tax was due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual license taxes noted below.

(b) Organization taxes

Fee to charter board:

Filing application for charter, \$25.

Fees to Secretary of State:

Charter fee on capital stock of \$10,000 or less, \$10; on capital stock up to \$100,000, one-tenth of 1 per cent.; over \$100,000, one-twentieth of 1 per cent. on such excess. Shares without par value shall be deemed to have a par of \$100 for tax purposes, unless the company shows the actual value of the consideration, in which case the tax is based on such amount.

Filing, recording, and certifying copy, \$2.50.

(c) Annual license fees

At the time of filing the annual report (on or before March 31 in each year) an annual fee must be paid as follows:

When the paid-up capital stock—

| exceeds | but does not exceed | the fee is |
|------------|---------------------|------------|
| nothing, | \$ 10,000, | \$ 10 |
| \$ 10,000, | 25,000, | 25 |
| 25,000, | 50,000, | 50 |
| 50,000, | 100,000 | 100 |
| 100,000, | 250,000, | 125 |
| 250,000, | 500,000, | 250 |
| 500,000, | 1,000,000, | 500 |
| 1,000,000, | 2,000,000, | 1,000 |
| 2,000,000, | 3,000,000, | 1,500 |
| 3,000,000, | 5,000,000, | 2,000 |
| 5,000,000 | | 2,500 |

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on all property within state, and to registration and annual fees.

(b) Registration fees

Fees to charter board:

Application fee, \$25.

Fees to Secretary of State:

Capitalization fee on proportion to be invested and used in the state: \$100,000 or less, one-tenth of 1 per cent., but in no case less than \$10. Over \$100,000, \$100, plus one-twentieth of 1 per cent. of amount in excess of \$100,000.

Filing and recording fee, \$2.50.

(c) Annual license fee

An annual fee must be paid each year as follows:

| When the proportion of issued capital used in Kansas— | | |
|-------------------------------------------------------|---------------------|------------|
| exceeds | and does not exceed | the fee is |
| nothing, | \$ 10,000, | \$ 10 |
| \$ 10,000, | 25,000, | 25 |
| 25,000, | 50,000, | 50 |
| 50,000, | 100,000 | 100 |
| 100,000, | 250,000, | 125 |
| 250,000, | 500,000, | 250 |
| 500,000, | 1,000,000, | 500 |
| 1,000,000, | 2,000,000, | 1,000 |
| 2,000,000, | 3,000,000, | 1,500 |
| 3,000,000, | 5,000,000, | 2,000 |
| 5,000,000 | | 2,500 |

(d) Taxes against owner of stock in foreign corporations

Shares of stock are not taxable to holders when the capital stock is listed for taxation by the corporation in the state. But holder may be taxed when foreign corporation does not pay such tax. *Hunt v. Board of Commissioners of Allen County*, 82 Kan. 824, 109 Pac. 106 (1910); *Weis v. Stubblefield*, 85 Kan. 199, 116 Pac. 205 (1911).

11. Taxation of trusts and beneficiaries

The trustee returns the property in his hands for taxation for the beneficiaries, and the beneficiaries themselves do not make the return.

KENTUCKY

(Revised to March 7, 1922)

1. General features of tax system

The revenue system of Kentucky is that of a general property tax, largely supplemented by licenses. There is an organization tax and an annual license tax on corporations, and an inheritance tax. A special feature of the Kentucky system is that the State Tax Commission may appoint revenue agents in each county and for the state at large, to bring suits to require the listing of property omitted from the rolls, which would otherwise escape. They receive as compensation 20 per cent. on all taxes recovered through their activity. The office of Supervisor of Revenue Agents was created by the Legislature in 1912, and amended in 1918. He is appointed by the State Tax Commission.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of Kentucky, 1919, containing the taxes on corporations, may be obtained by addressing the Secretary of State, Frankfort, Kentucky.

3. State taxing officials

State Tax Commission, Frankfort, Kentucky.

4. Income tax

There is no income tax in Kentucky.

5. General property tax

(a) Base

All real and personal property within the state, and all personal property of persons residing in the state, and of all corporations organized under the laws of the state, whether the same be in or out of the state, including intangible property, which is considered and estimated in fixing the value of corporate franchises, shall be subject to taxation, unless the same be exempt by the Constitution. But tangible personal property, located and having a taxable situs without the state, of persons residing in the state, and of all corporations organized under the laws of the state, is not subject to taxation.

"Real property" includes all lands and improvements.

"Personal property" includes every other species and character of property, that which is tangible as well as that which is intangible. Mortgages are taxable as personal property. No deduction on account of mortgages is allowed on the assessed value of land. Shares of stock in the hands of individual taxpayers, in corporations whose property is taxed upon more than 25 per cent. of its value (and paid by said corporations) are not taxable to the shareholder. This applies to banks and trust companies. Building and loan association stock is exempt in the hands of the shareholder, and all taxes are paid by the corporations, except as to foreign building and loan associations and foreign state banks; the stock of each is taxable to the individual shareholder.

(b) Exemptions

Property for public, religious, cemetery, charitable, educational, and library purposes is exempt from taxation. The General Assembly may authorize any incorporated city or town to exempt manufacturing establishments from municipal

taxation, for a period not exceeding five years, as an inducement to their location.

(c) Assessment

All corporations exercising special privileges, such as railroads, interurbans, street car lines, gas companies, electric light companies, pipe line companies, sleeping car companies, and all like companies, are assessed as to tangible property and franchise by the State Tax Commission, except telegraph companies, express companies, and telephone companies doing business in less than three counties. Such companies are assessed upon their tangible property by the local county tax commissioner (assessor), and the franchises of the last-named corporations are assessed by the said State Tax Commission, and the tax on said franchises is paid direct to the Auditor of Public Accounts.

The assessment of other property, for the purpose of state and county tax, is made by the local county tax commissioner. Each taxpayer is required to make to the tax commissioner, under oath, a statement of his property and its fair cash value. The tax commissioner, however, is not bound by such statement, and may fix the value himself. The assessment refers to the 1st day of July and is completed by the 1st of January. Rendering a false statement is treated as a misdemeanor, subject to a fine of not over \$500, and to an additional penalty of three times the amount of the tax otherwise due. Refusal to list property is subject to a fine of not over \$100.

When any person or association of persons not incorporated engage in any business that performs a public service, they are subjected to a franchise assessment, the same as if incorporated.

The shares of state banks, national banks, trust companies, building and loan associations, and life insurance companies

are assessed by the State Tax Commission on the basis of capital, surplus, and undivided profits, less the real estate, which is assessed as other real estate. Such companies are subject to a local tax, except building and loan associations, which pay on their real estate only.

Stock in foreign corporations is taxed in the hands of the individual stockholder at 40 cents on each \$100 for state purposes only, except where a foreign corporation has more than 25 per cent. of its assets in Kentucky, and is assessed and pays taxes thereon at the rate above mentioned. Then the stock in the hands of the individual is not assessable.

(d) Rate

The rate of taxation for state purposes is 40 cents on the \$100 on all property, except live stock, bank deposits, and building and loan association stock (the last two named are paid by the corporation), which are at a 10-cent rate on the \$100. Fifteen cents is used for ordinary expenses of government, 18 cents for common schools, 1 cent for sinking fund, 1¾ cents for University of Kentucky, 1¼ cents for the two state normal schools, and 3 cents for road fund.

(e) Collection

State, county and school district taxes are collected by the sheriff between March 1st and December 1st, without penalty. Six per cent. is added to all delinquents who have not paid by December 1st. On and after January 1st, the sheriff may distrain, and real property may be sold, if no personalty can be found.

7. Inheritance taxes

(a) General scope and rates

All property which shall pass, by will or by intestate laws of the state, from any person who may die seized or possessed

of the same while a resident of the state, or if such decedent was not a resident of the state at the time of death, which property, or any part thereof, shall be within the state, or any interest therein, or income therefrom, which shall be transferred by deed, grant, sale, or gift, made in contemplation of the death of the grantor or bargainor, or intended to take effect in possession or enjoyment after such death, to any person or persons, or to any body politic or corporate, in trust or otherwise, or by reason whereof any person, or body politic or corporate, shall become beneficially entitled in possession or expectancy, to any property, or to the income thereof, is subject to a tax for the general use of the commonwealth, upon the fair cash value of such property in excess of the exemptions at the rates prescribed below.

Property passing to wife, husband, lineal issue, lineal ancestor, adopted child, mutually acknowledged child, or lineal issue of adopted or mutually acknowledged child, at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 3 per cent. on amount over exemption over \$500,000. The exemptions for this class are: \$10,000 to wife, and \$5,000 to the other enumerated beneficiaries, except minors, who are exempted to the amount of \$10,000.

Brother, sister, descendant of brother or sister, widow of son, or husband of daughter, at rates ranging from $1\frac{1}{2}$ per cent. on amount over \$2,000 to \$25,000 to $4\frac{1}{2}$ per cent. on amount over \$500,000. Brother or sister of mother or father, or descendants thereof, at rates ranging from 3 per cent. on amount over \$1,500 to \$25,000 to 9 per cent. on amount over \$500,000.

Brother or sister of grandfather or grandmother, or descendants thereof, at rates ranging from 4 per cent. on amount over \$1,000 to \$25,000 to 12 per cent. on amount over \$500,000.

All others, at rates ranging from 5 per cent. on amount over \$500 to \$25,000 to 15 per cent. on amount over \$500,000.

Property passing for educational, charitable, or public purposes, within the state, is entirely exempt from taxation.

All property of nonresidents within state is subject to same rate of taxation as property of residents.

(b) Officials in charge of administration and collection . . .
State Tax Commission, Frankfort, Kentucky.

(c) When inheritance taxes are due—Discount and penalties

Accrues at date of death, payable within 30 days after property comes into possession of representatives of estate. Discount of 5 per cent. is allowed if paid within 9 months of death. After 18 months from death, 10 per cent. penalty is added from date of death, but rate is 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and public utility corporations are also subject to organization taxes or fee of \$1 on each \$1,000 of authorized capital stock and to a franchise tax; other corporations to organization tax of \$1 on each \$1,000 authorized capital and to a 50-cent tax annually on each \$1,000 authorized capital; \$10 being the minimum tax.

(b) Organization taxes

Recording articles of incorporation in office of Secretary of State at 25 cents for each 100 words.

Fee to State Treasurer:

Organization tax, one-tenth of 1 per cent. on the authorized capital.

(c) Franchise taxes

An annual franchise tax is imposed, consisting of 50 cents on each \$1,000 of capital represented by property and business in the state, but in no case less than \$10. Stock in a Kentucky corporation which has as much as 25 per cent. of its property located in Kentucky is exempt from taxation.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes on property in Kentucky, and to entrance fees and an annual license tax.

(b) Entrance fees

Recording statement with Secretary of State, \$1.

(c) Annual license taxes

Domestic and foreign corporations shall pay an annual license tax of 50 cents on each \$1,000 of that part of their authorized capital stock represented by property owned and business transacted in the state, but in no case less than \$10, which shall be ascertained by finding the proportion that the property owned and business transacted in the state bears to the aggregate amount of property owned and business transacted in and out of the state: Provided, that such corporations may pay at said rate upon their entire authorized capital stock, and in that event they shall not be required to report as in paragraph C of section 4189d, Carroll's Statutes 1915. And their failure so to report shall be deemed conclusive evidence that such corporation elects to pay upon its entire authorized capital stock, and it shall be its duty so to do, and the authority of the Board of Valuation and Assessment so to fix its license tax.

(d) Taxes against owner of stock in foreign corporations

Foreign corporation stock in the hands of the individual stockholder is taxed at 40 cents on the \$100 for state purposes only, except where a foreign corporation has more than 25 per cent. of its assets in Kentucky and is assessed and pays taxes at the rate above mentioned; then its stock in the hands of the individual is not assessable.

11. Taxation of trusts and beneficiaries

Trust estates are taxed exactly in the same manner as if owned by the individual, being taxed only once for state, county, and municipal purposes, if tangible property, and only for state purposes, if intangible property.

LOUISIANA

(Revised to May 15, 1922)

1. General features of tax system

Louisiana has a revenue system permitting the adoption by the Legislature of a classified property tax, and making provision for various license taxes. The Constitution of 1921 gives the Legislature authority to adopt an income tax, but surrounds it with so many restrictions that its application would be impractical and productive of insufficient revenue. Thus, the right to classify property for purposes of assessment and taxation will probably not be exercised by the Legislature, unless a true income tax is placed in the organic law, so that the loss in revenue resulting from a classified property tax could be made up by the income tax. All taxes must be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the laws regulating assessment and taxation in Louisiana may be obtained by addressing the Louisiana Tax Commission, Baton Rouge, Louisiana.

3. State taxing officials

Louisiana Tax Commission, Baton Rouge, Louisiana.

4. Income tax

The provision in the Constitution of 1921 relating to income tax reads as follows:

"After May 1, 1924, equal and uniform taxes, not to exceed three per cent. (3%), and for state purposes only, may be lev-

ied upon net incomes. Such taxes, when levied and paid, shall be credited pro tanto or entirely offset by all taxes, state and local, paid by the taxpayer for the year in which such income tax is due. Such income tax may be in lieu of occupational licenses and other taxes as the Legislature may provide. Public officials shall not be exempted. Reasonable exemptions may be allowed."

5. General property tax

(a) Base

The term "property" is defined by Act 109 of the Extra Session of 1921 to embrace and include every form, character, and kind of property, real, personal, and mixed, tangible and intangible, corporeal and incorporeal, and every share, right, title, or interest therein or thereto, and every right, privilege, franchise, patent, copyright, trade-mark, certificate, or other evidence of ownership or interest, bonds, notes, judgments, credits, accounts, or other evidence of indebtedness, and every other thing of value, in possession, on hand, or under the control, at any time during the calendar year for which taxes are levied, within the state of Louisiana, of any person, firm, partnership, association of persons, or corporation, foreign or domestic, whether the same be held, possessed, or controlled as owner, agent, pledgee, mortgagee, or legal representative, or as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager, sequestrator, receiver, trustee, stakeholder, depository, warehouseman, keeper, curator, executor, administrator, legatee, heir, beneficiary, parent, attorney, usufructuary, mandatory, fiduciary, or other capacity, whether the owner be known or unknown.

"*Real property*" is held to mean and include, not only land, city, town, and village lots, but all things pertaining and all

structures thereon and appurtenances thereto, as pass to the vendee by the conveyance of the land or lot.

"Personal property," or *"movable property,"* is held to mean and include all things, other than real estate, which have any pecuniary value, all moneys, credits, investments in bonds, stocks, franchises, shares in joint-stock companies or otherwise, rights to cut and remove or use standing trees or timber from the lands of another, whether the time to do so be limited or not, all standing timber or trees owned by any person other than the owner of the land upon which it or they stand. In all cases where the ownership of standing trees or timber, or the right to cut standing trees or timber, is in any person other than the owner of the land upon which the trees or timber stand, the trees or timber, or the right to cut and use the same, as the case may be, shall be assessed to the owner of such right or trees or timber, for taxation in the parish where the trees or timber are situated.

(b) Exemptions

The Constitution of 1921 provides that the following property, and no other, shall be exempt from taxation:

All public property.

Places of religious worship; rectories and parsonages belonging to religious denominations, and used as places of residence for ministers; places of burial; property devoted to charitable undertakings, including that of such organizations as lodges and clubs organized for charitable and fraternal purposes and practicing the same; schools and colleges; but the exemption shall extend only to property, and grounds thereunto appurtenant, used for the above-mentioned purposes, and not leased for profit or income.

Cash on hand or on deposit; loans or other obligations se-

cured by mortgage on property located exclusively in the state of Louisiana, and the notes or other evidence thereof; loans by insurance companies to policy holders, secured solely by their policies; loans by homestead associations to their members, secured solely by stock of such associations; debts due for merchandise or other articles of commerce or for services;¹ obligations of the state or its political subdivisions; household property to the value of \$1,000; the legal reserve of life insurance companies organized under the laws of this state; property belonging to any military organization of the state, used by the State National Guard or militia for military purposes; agricultural products, while owned by the producer; agricultural implements and farm improvements to the value of \$500; hogs, sheep, and goats for personal use; books, philosophical apparatus, and paintings kept in a public hall; the real estate and appurtenant property constituting auditoriums, opera houses, temples of music, museums of art, or carnival organizations, conducted as civic enterprises for the public welfare, while used solely for the promotion of art, and not operated for profit to the owners; property belonging to agricultural fair associations and used exclusively in the conduct of such fairs; ships and ocean-going tugs, towboats and barges, engaged in overseas trade and commerce and domiciled in Louisiana ports, provided this exemption shall not apply to harbor, wharf, shed, and other port dues; and no ship, tugboat, or barge operated in the coastal trade of the continental United States shall be within the exemption herein granted.

¹"Debts due for merchandise or other articles of commerce or for services" are defined, in the case of *Henderson Iron Works v. Assessor of Caddo Parish*, to mean credits; i. e., open accounts and bills receivable.

For 10 years from the date of completion, the capital stock, franchises, and property of all corporations constructing, owning, and operating within the state a combined system of irrigation, navigation, and hydroelectric power, using fresh water of Louisiana streams and watersheds: Provided, not less than \$3,000,000 shall have been expended in the construction of either system prior to January 1, 1927. No real or corporeal property shall be covered by this exemption, except that which is necessarily connected with, and appurtenant to, each canal system and forming part thereof, or forming a part of its necessary capital or reserves; nor shall this exemption extend to the assessed value that such real estate had at the time it may be acquired by the company: Provided, the right of the state to regulate the diversion of its public waters from their natural beds shall not be hereby waived.

For 10 years from date of completion, all pipe lines, pumping plants, and other property actually used in the transportation and distribution of natural gas, for fuel and light purposes, wholly within this state: Provided, such line shall have been constructed after the adoption of this Constitution, and shall have been completed prior to January 1, 1926: And provided, this exemption shall not apply to any property within a municipality, nor to pipe lines built to cities or towns already supplied with natural gas.

For a period of 15 years from the date of the adoption of this Constitution, all buildings, fixtures, and machinery used for manufacturing or commercial purposes located on lands situated on the Navigation Canal leased from the Board of Commissioners of the Port of New Orleans: Provided, no owner of such property shall be entitled to this exemption unless he shall have invested \$25,000 or more in the physical

property of such enterprise and keeps constantly employed at least 25 persons therein.

In addition to the foregoing, it has been decided by the Supreme Court of Louisiana, in the case of *Ficklen v. City of New Orleans et al.*, 147 La. 567, 85 South. 330 (1920), that stocks of corporations, whether in or out of the state, are not subject to taxation.

(c) Assessment

The valuation and classification fixed for state purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivisions may adopt a different percentage of such valuation for purposes of local taxation. The said valuation and classification are made by the Louisiana Tax Commission, for state, parochial and municipal purposes.

It is the duty of each taxpayer, parish of Orleans excepted, to fill out a list of his property in accordance with the form required by law, making oath thereto, and return the same to the assessor before the 1st of April of each and every year, and any refusal, neglect, or failure, from any cause whatsoever, to comply with this requirement, acts as estopping the taxpayer from contesting the correctness of the list filed by the assessor. It is the duty of every taxpayer in the parish of Orleans to make return of his property, duly sworn to, within 20 days after the list for such purpose shall have been left at his domicile or place of business, and any refusal, neglect, or failure, from any cause whatsoever, to comply with this requirement, has the effect of estopping the taxpayer from contesting the correctness of the assessment list filed by the assessor.

The assessment must be made on the 1st of April, on the basis of the condition of things that existed on the 1st day of January. No property shall be assessed for more than its actual cash value. The words "actual cash value" are held to mean a price that any piece of real estate or personal property or movable property would sell for, for cash in the ordinary course of business, free of all incumbrances, otherwise than by forced sale. Making a false tax list is punishable as perjury.

Shares of stock of national banks, state banks, and banking companies are assessed to the shareholders at the place where the bank is located, and at the value shown by the books, less the real estate owned by the bank, the tax to be paid by the bank, etc., which shall be entitled to collect from the stockholders. All property and assets of domestic life insurance companies are assessed as to a natural person in the parish or town where its business is located in its charter. Corporations, other than the above, are assessed upon their property. All property may be assessed in the name of the real owner, and, if held in trust, in the name of the fiduciary as such.

(d) Rate

The state rate, in 1921 and subsequently, is: First, 1.15 mills on the dollar, to be known as the "state bond and interest tax fund"; second, 2.50 mills on the dollar, authorized by section 14 of article XII of the Constitution of 1921, to be known as the "public school fund"; third, 0.75 of one mill on the dollar, authorized by section 3 of article XVIII of the Constitution of 1921, to be known as the "Confederate Veteran fund"; fourth, 0.32 of one mill on the dollar, to be known as the "general engineer fund"; fifth, 0.53 of one mill on the dollar, to be known as the "general fund." Total, 5.25 mills.

The rate of state taxation on property for all purposes shall not exceed, in any one year, $5\frac{1}{4}$ mills on the dollar of its assessed value: Provided, the Legislature may, by a vote of two-thirds of the members elected to each house, increase such rate to not more than $5\frac{3}{4}$ mills on the dollar.

(e) Collection

State taxes are collected by the sheriff (in Orleans parish, by one tax collector). The lien for taxes attaches on the day the tax roll is completed and filed with the recorder of mortgages, which is to be as soon as possible after September 1st (June 1st in case of the parish of Orleans), and this lien becomes a prior mortgage on December 31st, at which time taxes begin to draw interest at 10 per cent. per annum. Taxes on movable property are payable on the 1st day of the month next succeeding the filing of the tax roll, but forced collections are not made before October 1st, unless the collector fears they may be lost. In case of delinquent taxes, the taxpayer bears the expense of notice, advertisement, and sale. Taxpayers may point out the particular parcels of property to be sold, but the tax collector may seize movables without notice.

7. Inheritance taxes

(a) General scope and rates

There is levied upon all inheritances, legacies, and donations, and gifts made in contemplation of death, in favor of direct descendants, ascendants, or surviving spouse, a tax of 2 per cent. of the actual value thereof at the time of death, in excess of \$5,000 up to \$20,000, and 3 per cent. of such actual value on the amount in excess of \$20,000. Collateral heirs (including brothers or sisters by affinity), at rates of 5 per cent. on the actual value at time of death, in excess of \$1,000 and up to \$20,000, and 7 per cent. of such actual value on the

amount in excess of \$20,000. All other persons, at rates of 5 per cent. of actual value at time of death in excess of \$500 up to \$5,000, and 10 per cent. on the amount in excess of \$5,000. All legacies and donations to charitable institutions located within the state of Louisiana, entirely exempt. All property of nonresidents physically within the state, at same rates as property of residents.

(b) Officials in charge of administration and collection

Attorney appointed by the Governor for parish of Orleans. In all other parishes of the state, attorneys appointed to assist tax collectors act.

(c) When inheritance taxes are due—Discount and penalties

Due within 6 months from death. No discount. Interest at 1 per cent. per month is added, beginning 6 months from death, and at 2 per cent. per month beginning 12 months from death. Court may remit interest in case of unavoidable delay.

8. License taxes

The Constitution of 1921 contains the following provisions relative to license taxes:

“The Legislature shall impose an annual graded license tax upon all motor vehicles as follows:

“On automobiles for private use an annual minimum license tax of fifteen (\$15.00) dollars, to be graded up from this amount based upon horse power. On trucks or automobiles used for the transportation of passengers, or freight, or for the delivery or carrying of goods or merchandise, an annual minimum license tax of twenty-five (\$25.00) dollars, to be graded up from this amount based upon both horse power and carrying capacity or tonnage. On all motorcycles an an-

nual minimum license tax of five (\$5.00) dollars, to be graded up from this amount based upon horse power and carrying capacity. On all other vehicles using the public roads, the Legislature is authorized to impose an annual graded license tax based upon carrying capacity and tonnage.

"On gasoline, when sold in the state of Louisiana, there shall be levied a tax not to exceed two (2) cents per gallon, to be collected as may be prescribed by law. On all kerosene, or other explosives used for the generation of motive power, the Legislature may impose a tax to be collected as may be prescribed by law."

"License taxes may be levied on such classes of persons, associations of persons and corporations, pursuing any trade, business, occupation, vocation or profession, as the Legislature may deem proper, except clerks, laborers, ministers of religion, school-teachers, graduated trained nurses, those engaged in mechanical, agricultural or horticultural pursuits or in operating sawmills. Such license taxes may be classified, graduated or progressive. No political subdivision shall impose a greater license tax than is imposed for state purposes; but when an income tax is levied by the state, in lieu of state license taxes, this shall not prohibit the levy by the political subdivisions of the state of such license taxes as the Legislature may authorize. Those who pay municipal license taxes equal in amount to such taxes levied by the parochial authorities shall be exempt from such parochial license taxes."

"Taxes may be levied on natural resources severed from the soil or water, to be paid proportionately by the owners thereof at the time of severance. Such natural resources may be classified for the purpose of taxation and such taxes predicated upon either the quantity or value of the product at the time

and place where it is severed. No severance tax shall be levied by any parish or other local subdivision of the state."

9. Domestic corporation taxes

(a) In general

In addition to general property tax:

Corporations are subject to organization taxes. There is no annual franchise tax, but license taxes are imposed on certain classes of corporations.

(b) Organization taxes

Incorporation tax to State Treasurer: One-twentieth of 1 per cent. of authorized capital; minimum, \$10.

Fees to Secretary of State: Recording charter, about \$5.

Fee to recorder of mortgages: Recording charter, about \$4.50; advertising charter, \$25.

10. Foreign corporation taxes

(a) In general

In addition to general property tax on property in Louisiana:

Foreign corporations are subject to entrance fees. There is no annual license tax, except upon certain classes of foreign corporations, such as banks and telegraph, telephone, electric light and power companies, etc.

(b) Entrance fees

One-twentieth of 1 per cent. on capital stock and any increase thereof employed in the state, provided that such tax shall not be less than \$10 nor more than \$2,500.

Fees to Secretary of State: Filing certified copy of charter, between \$5 and \$10, depending on length. Issuing certificate, \$1. Filing, recording, and furnishing certified copy of power of attorney, \$3.50.

MAINE

(Revised to May 15, 1922)

1. General features of tax system

The general property tax is the chief feature of the revenue system of Maine. It is supplemented by a poll tax, a franchise and excise tax on corporations, an inheritance tax, and by license fees. The administration of taxes lies with the towns and other divisions of the local government, but, as the basis for the apportionment of state and county taxes, the assessments made locally are equalized once every two years by a state board. "Wild lands" situated in unincorporated places are valued by the Board of State Assessors, and are subject to state and county taxes. In 1909 these wild lands were organized into a forestry district and a tax of $2\frac{1}{4}$ mills has since been levied by the state against the property in the district, to be used in protecting the forests from fire.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Laws of Maine Relating to Inheritance Taxes may be obtained by addressing the Attorney General.

3. State taxing officials

Board of State Assessors, Augusta, Maine.

4. Income tax

There is no income tax in Maine.

5. General property tax

The general property tax is, strictly speaking, a town or local tax; the state and county taxes being apportioned among the towns once every two years to be raised on polls and estates in such manner as the towns shall provide. But there are so many regulations limiting and prescribing the action of the assessors, which are involved in the apportionment of the state taxes and designed to secure uniformity, that there is no serious impropriety, and a number of advantages, in describing the entire tax under state revenues.

(a) Base

All real property within the state, all personal property of inhabitants of the state, and all personal property of persons not inhabitants of the state possessed or situated in the state are subject to taxation.

"Real property," for purposes of taxation, includes all lands in the state, together with the water power, shore privileges and rights, forest and mineral deposits appertaining thereto, and all buildings erected on or affixed to the same. Land mortgaged is taxed to the person in possession. The loan is not taxable to the mortgagee, and the land is considered as that of the mortgagor until the mortgagee takes possession.

"Personal property," for purposes of taxation, includes all goods, chattels, money, and effects within the state or belonging to residents of the state; all vessels at home or abroad; all obligations for money or other property; money at interest and debts due in excess of those owed; all public stocks and securities; all shares in moneyed or other corporations within or without the state; all annuities payable to the person to be taxed when the capital of such annuity is not taxed in the state. Stock in manufacturing corporations and of real

estate corporations is not taxed, but the buildings, lands, and other property of the corporations are taxed to the corporations. Sailing vessels and barges, other than steam barges, registered or enrolled under laws of the United States or any foreign government and owned wholly or partly by inhabitants of the state, are assessed at a value of \$20 a ton gross tonnage when new, and at \$1 less for each year for 17 years; thereafter at \$3.

(b) Exemptions

(1) Property for benevolent, charitable, educational, religious, public, and cemetery purposes, exclusively, is exempt.

(2) The personality of Indians.

(3) All bonds issued after February 1, 1909 (P. L. 1919) and all notes or other obligations, by the state, or any county, municipality, village, corporation, or water district therein; all loans of money made by any individual or corporation, and secured by mortgages on real estate situated within the state. The general exemptions of public property apply in Maine, except that municipal property, to be exempt, must be located within the public limits and confines of the municipal corporations.

(c) Assessment

The assessment made by the State Board of Assessors remains the basis of state and county taxes for two years. The assessment refers to the 1st of April. Personal property is assessed where the owner lives, with certain exceptions, as of property used in certain kinds of business, which is assessed where situated. Among personal property assessed where located are all portable sawmills and logs to be manufactured by them, and lumber that has been manufactured by them. Personal property within the state, the owner being a nonresi-

dent of the state or being unknown, is taxed where located to the owner, if known, or to the possessor, if the owner is unknown. Taxpayers are notified by general notice to bring in a list of their property and may be required to swear thereto. Failure to render a list bars all right to abatement and appeal, unless the omission is explained and the list rendered at the time of seeking the abatement. The nature, amount, and value of the real and personal estate liable to taxation is determined by the assessor, from the lists furnished him by the taxpayers, and from such other information as he may possess or secure. Since 1911, the assessors are required to "estimate and record" separately the land value, exclusive of buildings, of each parcel of real estate. Debts owed may be deducted from debts due. Corporations, except certain classes, which pay special or excise taxes in lieu of property taxes, are generally taxed in the same manner as individuals. Stocks of corporations held by persons out of the state, except of manufacturing and real estate corporations, are assessed in the town in which the corporation transacts its business. The town has a lien on the stocks and all dividends thereon until the tax and costs of collection are paid. Stocks of state and national banks are taxed by state assessors at a rate 15 mills on the dollar, instead of locally, to the owners where they reside, if residents of the state. The tax in all cases is paid by the bank.

(d) Rate

The rate for state purposes is determined each year on the basis of the amounts needed to meet the appropriations made by the Legislature, and the sum to be raised at such rate is apportioned among the several towns, and "wild lands" properties by the Board of State Assessors, and such apportionment is ratified by the Legislature. The Treasurer of the

state then sends warrants to the mayor and aldermen, selectmen, or assessors of each city, town, or plantation so taxed, requiring them forthwith to levy the sum apportioned to their town or place, and to commit their levy to the constable or collector for collection. A tax of $1\frac{1}{2}$ mills per dollar is assessed annually to support schools.

(e) Collection

In general, all taxes, state and local, except excise taxes and those on corporations and wild lands, are collected by the collectors or constables of the several towns and paid by them to the town treasurers, who, upon demand made by warrant, remit the town's proportion of the state tax to the State Treasurer. The State Treasurer issues his warrants within the month prescribed specially by statute each year; when such state tax assessed against any city, town, or plantation remains unpaid, these delinquent subdivisions are precluded from drawing any school funds set apart for such city, town, or plantation so long as same remains unpaid, and, if the apportionments are unpaid 60 days after the time at which they become due, he may require the sheriff of the county to levy, by distress and sale, upon the real and personal property of any of the inhabitants of the town. The collectors are subject to imprisonment for failure to make the collections and if any person refuses to pay his tax, the collectors may distrain any of his goods and chattels, not exempt from debts, or, if for 12 days after demand a person neglects or refuses to pay a tax, or to show sufficient goods and chattels to pay it, the officers may commit him to jail. Persons imprisoned for nonpayment of taxes or officers for failure to collect taxes are treated as poor debtors. Liens to secure the payment of taxes on real estate attach as of April 1, take precedence of all other

claims and interest, and continue until the taxes are paid. Such liens may be enforced by action as for debt, and real estate may be attached and sold on execution issued in such action. If any tax on real estate remains unpaid on the first Monday of February in the year succeeding the year in which the tax was assessed, the collector may sell at public auction as much of the land as is necessary to pay the tax.

There is no fixed penalty for delinquency in taxes, but interest at 1 per cent. per month may be added after the time fixed by towns for payment, if the town so votes.

If, after the assessor has turned over his original assessment roll to the town collector, he desires to add other property to the roll, whether such property was omitted by mistake or otherwise, he may send to the collector a supplemental invoice and valuation. The collector is thereupon required to collect the supplemental amounts, together with the original amounts, notwithstanding that by such supplement the whole amount may considerably exceed the sum to be assessed or alter the proportion of tax allowed by (local) law to be assessed on polls.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the state, and any interest therein, whether belonging to inhabitants of the state or not, and whether tangible or intangible, which shall pass by will, by the intestate laws of the state, by allowance of a judge of probate to a widow or child, by deed, grant, sale or gift, except in cases of a bona fide purchase for full consideration in money or money's worth, and, except as otherwise provided, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or

otherwise, except to or for the use of any educational, charitable, religious, or benevolent institution in the state, is subject to an inheritance tax for the use of the state as hereinafter provided:

Property which shall so pass to or for the use of husband, wife, father, mother, child, adopted child, adoptive parent, lineal ancestor, lineal descendant, wife of son, widow of son, husband of daughter, at rates ranging from 1 per cent. on amount over exemption to \$50,000 to 2 per cent. on amount over exemption over \$100,000. The exemptions in this class are \$10,000 to each beneficiary, except lineal ancestor, lineal descendant, wife of son, widow of son, or husband of daughter, where the exemption is \$500. Brother, sister, uncle, aunt, nephew, niece, cousin, at rates ranging from 4 per cent. on amount over \$500 to \$50,000 to 5 per cent. on amount over \$100,000. All others, at rates ranging from 5 per cent. on amount over \$500 to \$50,000 to 7 per cent. on amount over \$100,000. All property of nonresidents within the state is subject to the same rate of taxation as the property of residents, except that there may be deducted from the property within the state such proportion of the total indebtedness of the estate as the property within the state bears to the total property. Each heir or legatee is considered as receiving such proportion of the property within the state as the amount of all the property received by him bears to all the property of which the decedent died possessed.

(b) Official in charge of administration and collection

Attorney General, Augusta, Maine.

(c) When inheritance taxes are due—Discount and penalties

Due within two years from granting of letters testamentary, etc., or at time within said two years when shares are paid

over to a beneficiary. No discount; 6 per cent. interest is added from time tax was due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Fee to State Treasurer:

On authorized capital of \$10,000 or less, \$10; \$10,000 to \$500,000, \$50; over \$500,000, \$10—on each \$100,000 of capital or fraction thereof. Organization tax on shares without par value is at the rate of 1 cent per share; minimum, \$10.

Fee to Attorney General:

Examining and approving certificate of organization, \$5.

Fees to Secretary of State:

Filing certificate of organization, \$5.

Fees to register of deeds:

Recording certificate of organization, about \$5. Filing appointment of clerk, 25 cents.

(c) Franchise taxes

Rate of annual franchise tax on authorized capital of \$50,000 or less, \$5; \$50,000 to \$200,000, \$10; \$200,000 to \$500,000, \$50; \$500,000 to \$1,000,000, \$75; over \$1,000,000, \$50 on each \$1,000,000 or fraction thereof. The tax on no par value shares is 5 mills per share; minimum, \$10. Street railroads, sleeping car companies, telephone and telegraph companies, express companies, insurance companies, savings banks, and building and loan associations are subject to excise taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to registration and annual license fees.

(b) Registration fees

Fees to Secretary of State:

| | |
|-------------------------------------------------------------|------|
| Filing power of attorney..... | \$10 |
| Filing foreign corporation certificate..... | 10 |
| Affixing seal to certificate of authority..... | 1 |
| Filing certificate of change of capital foreign corporation | 10 |

(c) Annual license taxes

An annual license tax of \$10 must be paid to State Treasurer.

(d) Taxes against owner of stock in foreign corporations

The stock of foreign corporations owned in Maine is taxable. If, however, the corporation does business in Maine, clause III, section 14, chapter 10, Revised Statutes, provides that, in assessing the stockholders of any corporation, "there shall be deducted from the value of the shares the proportional part of any machinery, goods, or real estate, already taxed in Maine to the corporation."

11. Taxation of trusts and beneficiaries

The tax laws provide that:

"Personal property held in trust by an executor, administrator or trustee, the income of which is to be paid to any other person, shall be assessed to such executor, administrator or trustee, in the place where the person to whom the income is payable as aforesaid, is an inhabitant. But if the person to whom the income is payable as aforesaid, resides out of the

state, such personal property shall be assessed to such executor, administrator or trustee, in the place where he resides.

"Personal property placed in the hands of any corporation as an accumulating fund for the future benefit of heirs or other persons, shall be assessed to the person for whose benefit it is accumulating, if within the state, otherwise, to the person so placing it, or his executors or administrators, until a trustee is appointed to take charge of it or its income, and then to such trustee.

"(As amended by St. 1905, c. 7.) The personal property of deceased persons in the hands of their executors or administrators not distributed, shall be assessed to the executors or administrators in the town where the deceased last dwelt, until they give notice to the assessors that said property has been distributed and paid to the persons entitled to receive it. If the deceased at the time of his death did not reside in the state, such property shall be assessed in the town in which said executors or administrators live. Before the appointment of executors or administrators the property of deceased persons shall be assessed to the estate of the deceased in the town where he last dwelt, if in the state, otherwise in the town where the property is on the first day of April, and the executors or administrators subsequently appointed shall be liable for the tax so assessed."

MARYLAND

(Revised to May 15, 1922)

1. General features of tax system

The revenue system of Maryland consists of, first, the general property tax, which is distinguished by the endeavor to reach all classes of property, and notably by the taxation of intangible evidences of ownership, such as the capital stock of corporations, bonds, public debts, notes, claims, and certificates of indebtedness of individuals or firms; second, an extensive system of license taxes; third, a group of special corporation taxes, notably upon gross receipts; fourth, an inheritance tax; and, fifth, a tax on commissions of officers, executors, etc. Railroad property is taxed for county and city purposes like the property of individuals, but is exempted from state taxes other than that upon gross receipts. Railroad stock is not taxed. There is generally no tax upon personal property of corporations taxed on their capital stock. Poll taxes are forbidden by the Constitution. Special provisions for the several counties and cities are contained in a code of public local laws, which are not herein treated.

2. Where pamphlet copies of tax laws may be secured

For a pamphlet copy of the Tax Laws of Maryland, address State Tax Commission, Baltimore, Maryland.

3. State taxing officials

State Tax Commission, Baltimore, Maryland.

4. Income tax

There is no income tax in Maryland.

5. General property tax

(a) Base

All property of every kind, nature, and description within the state, except as specially exempted, is subject to assessment for state, county, and municipal taxation. There is no definition or classification of real or personal property for purposes of taxation. Certain subjects are specially enumerated. All certificates of indebtedness issued by any state, county, public corporation, or foreign country are subject to taxation; also all bonds of any state or corporation belonging to residents and all investments in private securities, except that certificates and evidences of debt of the state of Maryland shall not be taxed.

Corporations are taxed upon real estate and the stock and bonds of the corporation; there is generally no tax on personal property of domestic corporations, except in the case of corporations not taxable on their stock. Where there is no capital stock, the property and assets of the company, real and personal, are subject to assessment. Personal property of foreign corporations is taxable.

The property, real and personal, of railroad companies, is subject to assessment only for county and municipal purposes. All bonds or certificates of indebtedness bearing interest issued by any railroad or other corporation of the state, held by residents and secured by mortgage on property wholly within the state, are taxed to the owners.

(b) Exemptions

(1) In addition to public property, the exemptions are:

Judgments rendered by courts of record or justices of the peace; churches; cemeteries; crops in producer's hands; hospitals; asylums; charitable and benevolent institutions, etc.

(2) The personal property of corporations having capital stock divided into shares which are subject to taxation in the state.

(3) Stock loans of the city of Baltimore.

(4) Manufacturing plants and machinery, exempt from local taxation for the purpose of encouraging new industries in Baltimore city, town of Hagerstown, Anne Arundel county, and Hartford county.

(c) Assessment

The counties are divided into assessment districts, which are composed of the election districts. In assessing the property in each election district, the assessors at large act with the assessor of the election district. The assessors require of the taxpayers under oath a schedule of real and personal property, with the value thereof. Failure to furnish a schedule is penalized by doubling the taxes for the first year. False return is punishable as perjury by a fine of \$500, or by two years' imprisonment. Property is to be valued at its full cash value and not as at forced sale value. The State Tax Commission is required to see that all property in the state is reviewed for purposes of assessment and taxation at least once in every five years.

Banks, state and national, and other incorporated institutions, corporations, and joint-stock companies, are assessed locally on their real estate.

Shares of stock in domestic corporations owned by residents and nonresidents are assessed for taxation and the taxes are collected from the corporation, which may charge them to the account of the shareholders. The revenue laws treat the stockholders as the owners of so much property, to be estimated by the actual value of the stock. The capital stock of the corporation is the representation of its property. The state does not tax both the capital stock and the property represented by it. The valuation is made by the State Tax Commissioner on the basis of reports from the corporation. (Shares of stock in domestic or foreign steam railroad companies, liable to the state gross receipts tax and to local property taxes, are exempt from all taxation.) The taxable value of shares of stock is ascertained by the State Tax Commissioner, by deducting from the aggregate value of the shares of the banks, corporations, or joint-stock companies the assessed value of their real estate and dividing the remainder by the number of shares. The State Tax Commissioner is required to certify to the county commissioners of the county where any shareholders reside, the number of shares held by residents, the net value per share and the aggregate amount. Shares held by nonresidents are taxable for county and municipal purposes where the bank or company is situated.

The shares of stock of foreign corporations in the hands of a Maryland owner are subjected (provided dividends are paid on such stock) to a tax of 45 cents per \$100, 30 cents for county purposes, and 15 cents for state purposes, and not to the full state tax rate. All bonds or other evidences of debt issued by any corporation, public or private, foreign or domestic (except the state of Maryland), are to be assessed at their actual value in the market and taxed at the same rate as foreign stock, *supra*.

The capital stock and bonds, certificates, or other interest-bearing evidences of debt, issued by incorporated companies of the state, are to be assessed for state taxes. Certificates of indebtedness issued by any individual or firm are to be assessed at the regular rate for state purposes and the 30-cent rate for local purposes. Failure to list bonds, notes, claims, or other evidences of debt is penalized by forbidding action at law or equity thereon until the tax is paid, with an addition of 50 per cent. per annum where there is an intention to evade the taxes. Mortgagors are assessed for real estate at its actual value, without regard to the mortgage lien. Covenants for the mortgagor to pay the taxes on the mortgage debt are unlawful.

(d) Rate

The county commissioners of the several counties and the mayor and city council of Baltimore are directed by the Legislature at each session to levy the taxes for the various funds. The state rate in 1920 was $36\frac{81}{100}$ cents on each \$100. The Comptroller of the Treasury levies the same state taxes on shares of capital stock of all banks, incorporated institutions, and companies of the state. A tax of 1 cent on the \$100 valuation is levied annually for the maintenance and repair of state roads.

(e) Collection

Taxes are collected by the county collectors, who are compensated by a percentage of the amount of their collections. There is no deduction for prompt payment of state taxes. All state, county, and municipal taxes are liens on the real estate of the taxpayer from the time of levy, and are considered in arrears on the 1st day of January, and bear interest at 6 per cent. Collection may be enforced by distraint of personalty or sale of realty.

7. Inheritance taxes

(a) General scope and rates

All estates, real, personal, and mixed, money, public and private securities for money of every kind, passing from any person who may die seized and possessed thereof, being in this state, or any part of such estate or estates, money, or securities, or interest therein, transferred by deed, will, grant, bargain, gift, or sale, made or intended to take effect in possession after the death of the grantor, bargainor, deviser, or donor, to any person or persons, bodies politic or corporate, in trust or otherwise, other than to or for the use of the father, mother, husband, wife, children, and lineal descendants of the grantor, bargainor, or testator, donor, or intestate, shall be subject to tax of 5 per cent. on every \$100 of the clear value of such estate, money, or securities; and all executors and administrators shall only be discharged from liability for the amount of such tax, the payment of which they may be charged with, by paying the same for the use of the state, as hereinafter directed: Provided, that no estate which may be valued at a less sum than \$500 shall be subject to the tax imposed by this section. Property of nonresidents within the state subject to same rate of taxation as property of residents. Shares of stock in a Maryland corporation standing in the names of nonresidents are not subject to this tax.

The rate of tax on commissions of executors and administrators payable by all residents of the state is, 1 per cent. on first \$20,000, and one-fifth of 1 per cent. on balance.

Nonresidents are taxed at above rates upon such part of their property as is administered in the state, and also upon the value of shares of stock owned by nonresidents in Maryland corporations other than "ordinary business corporations," whether or not administered in the state.

(b) Official in charge of administration and collection

Attorney General, Baltimore, Md.

(c) When inheritance taxes are due—Discount and penalties

Due within 90 days from ascertainment of amount as provided by the law. No discount. Interest at 6 per cent. per annum is added after expiration of 12 months from date of death.

9. Domestic corporation taxes**(a) In general**

The line of demarcation between the special corporation taxes and the general property tax is not so clear in Maryland as in most other states. There are organization and annual franchise taxes.

(b) Organization taxes

Fee to State Tax Commission:

Bonus tax—minimum, \$20; 20 cents per \$1,000 up to and including \$1,000,000; \$150 for each \$1,000,000 or fraction thereof in excess of \$1,000,000 up to \$5,000,000; \$20 for each \$1,000,000 or fraction thereof in excess of \$5,000,000. Shares without par value for the purpose of this tax are treated as though they were of the par value of \$100 each. Recording and filing charter, with only one class of stock, \$10; if more than one class, \$15.

(c) Franchise taxes

Annual franchise tax, due September 1st of each year, after 1918:

First \$5,000 or less, \$10; each \$1,000 in addition, up to \$50,000, \$1. If over \$50,000, but not more than \$100,000, add \$1 for each \$2,000. If over \$100,000, but not more than

\$250,000, add \$20. If over \$250,000, but not more than \$500,000, add \$20. If over \$500,000, but not more than \$1,000,000, add \$30. If over \$1,000,000 but not more than \$10,000,000, add \$50 for each additional million or fraction thereof; if over \$10,000,000, add \$100 for each \$5,000,000 or fraction thereof. (Fractional parts of excess units are taxed as units.)

This tax is levied on the capital stock issued and outstanding, but the entire authorized capital stock is taken as issued, unless on or before March 1st the corporation shall file with the State Tax Commission a certificate showing the actual number of its outstanding shares.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to registration fees and to annual franchise taxes.

(b) Registration fees

Fees to State Tax Commission:

Filing certified copy of charter and issuing certificate of authority, \$25.

(c) Annual franchise taxes

The annual franchise tax is based on the amount of capital employed in the state, at the following rate: Minimum, \$25; \$25 for every full \$50,000 up to \$500,000; over \$500,000, but not more than \$5,000,000, an additional amount equal to one-fortieth of 1 per cent. on the excess; and, if more than \$5,000,000, an additional amount at the rate of \$30 for every \$1,000,000 of such excess.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in a foreign corporation in the hands of a Maryland owner are subjected (provided dividends are paid

on such stock) to a tax of 45 cents per \$100, 30 cents for county purposes and 15 cents for state purposes, and not to full state tax rates.

11. Taxation of trusts and beneficiaries

The interest of the beneficiaries in the trust is taxable where the residence of the beneficiary is not at the residence of the trustee. Even though the trustee is a resident of another state and the beneficiary a resident of Maryland, still the personal property interest of the beneficiary is taxable.

MASSACHUSETTS

(Revised to May 15, 1922)

1. General features of tax system

The general property tax is used in Massachusetts for both state and local purposes. It is the main dependence of the local governments, but the state government draws very heavily upon other sources as well. Peculiar features of the system are the listing of polls along with property and of certain incomes as if property, and the apportioning of county and state taxes on both thereof, as well as on real and personal property, among the towns and cities. The assessment of real and personal property, including incomes, and of polls, and the general administration of this tax, are mainly matters of local administration. The state levies, through the agencies of the towns and cities, a so-called direct state tax (usually expressed in round numbers—1921 it was \$14,000,000), apportioned among them on the basis of the local valuations and enumerations of polls roughly equalized. The general corporation tax, or so-called general franchise tax, administered largely by state officials, is a distinguishing feature of the Massachusetts system. This tax and certain special corporation taxes yield a large proportion of the state revenue. There are income and inheritance taxes, administered by the State Department of Corporations and Taxation, and a stamp tax on stock transfers.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copy of the General Laws Relating to Taxation, containing copies of all tax laws, may be obtained by ad-

addressing the Commissioner of Corporations and Taxation, Boston, Massachusetts. The Old Colony Trust Company, 17 Court street, Boston, issues a pamphlet on "The Operation of the Massachusetts Inheritance Tax Laws."

3. State taxing officials

Commissioner of Corporations and Taxation, Boston, Massachusetts.

4. Income tax

(a) General scope

Massachusetts imposes an income tax on "any inhabitant of the commonwealth" on income from certain intangibles at the rate of 6 per cent., on income from annuities at the rate of 1½ per cent., on the excess over \$2,000 of the income, as defined in the law, derived from professions, employments, trade, or business at the rate of 1½ per cent., and the excess of the gains over the losses received by the taxpayer from purchases or sales of intangible personal property, whether or not the taxpayer is engaged in the business of dealing in such property, is taxed at the rate of 3 per cent. per annum.

Included among intangibles taxable at the 6 per cent. rate are: Interest from bonds, notes, money at interest, and all debts due the person to be taxed, *except* from deposits in Massachusetts banks, and in savings departments of certain trust companies, also in certain New Hampshire banks (deposit over limit makes entire interest on deposit taxable; interest on deposit in savings department of national bank is taxable), *except* interest from bonds, notes and certificates of indebtedness of the United States and such bonds, notes, and certificates of the commonwealth of Massachusetts issued since January 1, 1906, and bonds, notes, and certificates of indebtedness of any county, city, town, fire district, water district, light district,

or improvement district in the commonwealth, issued on or after May 1, 1908, stating on their face that they are exempt from taxation in Massachusetts, and *except* interest on loans secured exclusively by mortgage of real estate, taxable as real estate, situated in Massachusetts, to an amount not exceeding the assessed value of the mortgaged real estate, less the amount of all prior mortgages, and *except* interest on loans made in the course of business by persons loaning money as a business upon the pawn or pledge of tangible personal property.

Income from shares in trusts which issue transferable shares is subject to tax, only in case the trust itself does not pay taxes as provided in the law.

Trustees and partnerships are subjected to tax under this law.

(b) Returns

Every individual inhabitant of Massachusetts, including every partnership, association, or trust, whose annual income from all sources exceeds \$2,000, and every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy, assignee for the benefit of creditors, and receiver, other than a receiver of a domestic corporation, shall file a return with the income tax assessor for the district where he resides or has his principal place of business, or, at the option of the taxpayer, with the Commissioner of Taxation, on or before March 1st in each year. In case of sickness, absence, or disability, the Commissioner may allow further time for filing the return. If any person fails to file on or before May 1st of any year, mandamus may be issued requiring him to file a return.

Information at the source

Every employer, being an inhabitant of Massachusetts, or having a place of business therein, is required to file annually

with the commissioner a return in such form as he shall from time to time prescribe, giving the name and address of all regular employees residing in Massachusetts to whom the employer has paid wages, salary, or other compensation in excess of \$1,800, during the preceding calendar year.

5. General property tax

(a) Base

All property, real and personal, situated within the commonwealth, and all personal property of the inhabitants wherever situated, unless expressly exempt, is subject to taxation.

"Real estate," for the purpose of taxation, shall include all land within the commonwealth and all buildings and other things erected thereon or affixed thereto.

Mortgages upon buildings or other things, which, with the land upon which they are erected or to which they are affixed, shall be deemed mortgages of real estate for the purpose of taxation.

"Personal property," for the purpose of taxation, includes:

(1) Goods, chattels, money, and effects wherever they are; ships and vessels at home or abroad, except when ships engaged in interstate and foreign carrying trade are subject to excise tax under section 8 of chapter 59 and section 67 of chapter 63.

(2) Money at interest, and other debts due the person to be taxed, more than he has indebtedness or pays interest therefor, but not including any such debts due him or indebtedness from him; any loan on mortgage of real estate, taxable as real estate, except the excess of such loan above the assessed value of the mortgaged real estate.

(3) Public stocks and securities, bonds of railroads and street railways, and stock in turnpikes, bridges, and moneyed corporations, within or without this commonwealth.

(b) Exemptions

(1) Property of the United States and property of Massachusetts, etc.

(2) Property of various literary, benevolent, charitable, and scientific institutions, etc., with certain limitations thereon.

(3) Property of incorporated agricultural societies, etc., organizations by veterans of any war in which the United States has been engaged, and various other public and charitable properties.

(4) Property to the amount of \$1,000 of a widow, of an unmarried woman above the age of 21, of a person above the age of 75, or of any minor whose father is deceased, who are legal residents of the commonwealth whether such property be owned by such persons, separately, or jointly, or as tenants in common: Provided, that the whole estate of such person does not exceed in value the sum of \$1,000, exclusive of property otherwise exempt.

(5) The polls and any portion of the estates of persons who, by reason of age, infirmity, and poverty, are, in the judgment of the assessors, unable to contribute fully to the public charges.

(6) Merchandise, machinery, and animals owned by inhabitants of Massachusetts, but situated in another state.

(7) The wearing apparel and farming utensils of every person; household furniture used in a dwelling, which is the place of his domicile, not exceeding \$1,000 in value, and the necessary tools of a mechanic, not exceeding \$300 in value.

(8) Various amounts of capital.

(9) Property of veterans to the amount of \$2,000 provided that the whole estate of the person was exempted, or the combined property of a veteran and his wife does not exceed \$5,000, etc.

(10) Soldiers and sailors who served in wars in which the United States engaged, and who, by reason of injury received or disease contracted while in such service, lost the sight of both eyes, or one eye, the sight of the other having been previously lost, or who lost one or both feet, or one or both hands, and those who became incapacitated for the performance of manual labor. Wives or widows of the soldiers or sailors are entitled to the foregoing exemption.

(11) Bonds, notes, or certificates of indebtedness of the United States.

(12) Bonds or certificates of indebtedness of the commonwealth issued since January 1, 1906, and bonds, notes, and certificates of indebtedness of any county, city, town, fire district, water district, light district, or improvement district in the commonwealth, issued on or after May 1, 1908, stating on their face that they are exempt from taxation in Massachusetts.

(13) Land specially taxed as forced land, etc., under chapter 61, is exempt from general property tax.

(14) Property, the income of which is subject to income tax, or would be taxable thereunder if the property yielded income, except when the taxpayer fails to make a full return of his taxable income.

(15) Deposits in savings banks or other institutions, the income from which is exempt from income tax as above described under "income tax."

(16) Shares in partnerships, associations, or trusts, except where the taxpayer fails to account for income therefrom as provided in the Income Tax Law.

(17) Capital stock and personal property of co-operative banks.

(18) Stock in domestic and foreign corporations subject to franchise tax.

(19) Intangible property held by any fiduciary in Massachusetts.

(c) Assessment

A striking feature connected with the assessment is the unusual and extraordinary powers conferred upon the assessors, who not only make the valuations and list the polls and estates, but make the final tax levy, or, as it is called in the statutes, "assess the taxes," by which is meant that they apportion among the various polls and estates as valued by them the amount of taxes authorized to be raised in their town or city for town or city, county, and state purposes. They also "commit the tax list with their warrants to the collector of taxes," and may even grant "abatements," or reductions, in taxes to individuals after the tax bills are made out. They thus perform the functions and have the powers of assessors, auditors, equalizers, local boards of review, and local boards of appeal with respect to taxation; but an appeal from the arbitrary exercise of these powers lies to the county commissioners or to the superior court of the county.

The assessment refers to the 1st day of April and valuations are to be at the fair cash value. Real estate is listed annually, mortgages being treated as an interest in real estate and listed in the place where the real estate lies, and tangible personal property is also assessed annually and in the city or town of which the owner is a resident, except that all tangible personal property having a situs is taxed where situated.

A mortgagee in possession of land is assessed as sole owner thereof. If the mortgagee has only an interest in the land, he is assessed on such interest; the tax on such property may be

assessed as described, but usually the whole value is assessed to the mortgagor or his assigns of record.

The tax commissioner has large supervisory powers. He advises and instructs assessors in the performance of their duties.

(d) Rate

The aggregate amount of state and county taxes to be raised is fixed by the Legislature at each session. Each town or city is required to raise its quota for state and county purposes by a levy on polls and estates. Once every three years the tax commissioner determines what proportion of the whole each town or city is to pay. The assessors in the towns then determine the rates by apportionment upon the property subject to taxation. There is thus no state rate as such.

(e) Collection

All taxes are collected by the tax collectors, and are payable on demand by them. If they remain unpaid for 14 days after demand and notice, they may be collected by distress and sale and in certain cases by arrest and imprisonment. Taxes on land become a lien on April 1.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the commonwealth, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of the commonwealth or not, which shall pass by will, or by laws regulating intestate succession, or by deed, grant, or gift, except in cases of a bona fide purchase for full consideration in money or money's worth, made in contemplation of the death of the grantor or donor, or made or intended to take effect in possession or enjoyment after his

death, and any beneficial interest therein which shall arise or accrue by survivorship in any form of joint ownership, in which the decedent joint owner contributed during his life any part of the property held in such joint ownership, or of the purchase price thereof, to any person, absolutely or in trust, except to or for the use of charitable, educational, or religious societies or institutions, the property of which is by the laws of the commonwealth exempt from taxation, or for or upon trust for any charitable purposes to be carried out within the commonwealth, or to or for the use of the commonwealth or any town therein for public purposes, is subject to a tax at the percentage rates, as follows:

Property passing to husband, wife, father, mother, child, adopted child, adoptive parent, grandchild, at rates ranging from 1 per cent. on the first \$25,000 to 7 per cent. on amount, over \$1,000,000. The exemption to this class is \$10,000.

Lineal ancestor, except father or mother; lineal descendant, except child or grandchild; lineal descendant of adopted child, lineal ancestor of adoptive parent, wife or widow of a son, husband of a daughter, at rates ranging from 1 per cent. on the first \$10,000 to 9 per cent. on amounts over \$1,000,000. Brother, sister, half-brother, half-sister, nephew, niece, step-child, stepparent, at rates ranging from 3 per cent. on amount over \$1,000 to \$10,000 to 12 per cent. on amount over \$1,000,000. All others, at rates ranging from 5 per cent. on amount over \$1,000 to \$10,000 to 12 per cent. on amount over \$1,000,000. All property of nonresidents within the state is subject to same rate of taxation as property of residents.

If the value of property exceeds the amount of the exemption, *all* is taxed; but no tax will be exacted which will reduce the share of any beneficiary below amount of exemption. Property of a nonresident decedent which is taxable in state

of residence is not taxable in Massachusetts, except as to excess of Massachusetts tax over that imposed by state of nonresident decedent, provided a like exemption is made in favor of residents of Massachusetts.

(b) Official in charge of administration and collection

Commissioner of Corporations and Taxation, Boston, Mass.

(c) When inheritance taxes are due—Discount and penalties

Due within one year from qualification by representative of the estate. Discount of 4 per cent. per annum is allowed, if paid before expiration of said year. Interest is added from expiration of year.

9. Domestic corporation taxes

(a) In general

Corporations are subject to general property taxes, described above, and to organization fees, and annual excise taxes, described below.

(b) Organization taxes

Fee to Secretary of Commonwealth: Filing and recording articles of incorporation and issuing certificate of organization, one-twentieth of 1 per cent. on authorized capital; 5 cents per share, in the case of non-par value shares; minimum, \$50.

(c) Annual excise tax

This tax is based on both the "corporate excess" and "net income." The rate is the sum of the following:

(1) An amount equal to \$5 per thousand upon the value of its corporate excess.

(2) An amount equal to $2\frac{1}{2}$ per cent. of that part of its net income which is derived from the business carried on within the state.

“Corporate excess” means the fair cash value of all the shares of stock on April 1 *minus* the value of the following:

(1) Its real property (except that part represented by mortgage), its works, structures, real estate, machinery, poles, underground conduits, wires, and pipes owned by it in the state subject to local taxation.

(2) Its real and tangible personal property situated outside the state (excepting such part as represents the interest of a mortgagee).

(3) Securities the income of which would *not* be taxable in the hands of a resident individual (other than shares in national banks and voluntary associations, trusts, and partnerships, and shares of stock in the corporation itself, owned directly by it or for its own benefit).

(4) If any of its cash accounts and bills receivable, excluding notes, is attributable to an office outside the state, such proportion of its cash and accounts and bills receivable, excluding notes, which its real estate, machinery, and merchandise situated outside the state bear to its total real estate, machinery, and merchandise.

“Net income” shall mean the net income for the taxable year of the corporation, as required to be reported by the corporation in its last prior federal income tax return, and such interest and dividends, not so required to be returned as net income, as would be taxable if received by an inhabitant of Massachusetts, *deducting therefrom* all interest received upon bonds, notes, and certificates of indebtedness of the United States which was included in such return.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes on property in the state and to entrance fees and annual excise taxes.

(b) Entrance fee

Fees to Treasurer and Receiver General, for filing charter and by-laws, \$50.

(c) Annual excise taxes

Every foreign corporation shall pay annually, with respect to the carrying on or doing of business by it within the commonwealth, an excise equal to the sum of the following:

(1) An amount equal to \$5 per thousand upon the value of the corporate excess employed by it within the commonwealth. The term "corporate excess" within the commonwealth shall mean such proportion of the fair cash value of the issued capital stock as the assets, both real and personal, employed in any business within the commonwealth on the 1st day of April following the close of the taxable year bear to the total of such assets of the corporation on said date, less the following deductions: (a) The value of the works, structures, real estate, machinery, poles, underground conduits, wires, and pipes owned by it within the commonwealth subject to local taxation, except such part of the said real estate as represents the interest of a mortgagee; (b) the value of securities held in Massachusetts, other than shares in national banks, voluntary associations, trusts and partnerships, the income of which, if any, if received by a natural person resident in this commonwealth, would not be liable to taxation. In determining the proportion of assets employed within the commonwealth, the tax commissioner may include such bank deposits in other states

as are employed principally in the conduct of the business in this commonwealth. In determining the corporate excess within the commonwealth, there shall not be deducted the value of shares in national banks and in voluntary associations, trusts, and partnerships, nor of other securities the income of which, if owned by a natural person resident in this commonwealth, would be liable to taxation, nor shall there be deducted the value of any shares of stock of the corporation itself owned directly or indirectly by it or for its benefit, and the Tax Commissioner, in determining for the purposes of taxation the value of the corporate excess of any such corporation shall not take into consideration any debts of the corporation, unless he is satisfied that no part of such debts was incurred for the purpose of reducing the amount of taxes to be paid by it.

(2) An amount equal to $2\frac{1}{2}$ per cent. of that part of its net income, as hereinafter defined, which is derived from business carried on within the commonwealth (and an extra excise tax at the rate of three-quarters of 1 per cent. of its net income, under chapter 493, Acts of 1921).

If two or more foreign business corporations participate in the filing of a consolidated return of income to the federal government, the tax under paragraph (2) above may, at their option, be assessed upon their combined net income, which tax shall be assessed upon both corporations and collected from either corporation. In the case of corporations thus affiliated and in the further case of a single foreign corporation which files with one or more domestic business corporations a consolidated return of net income to the federal government, such foreign corporation or corporations shall file with the tax commissioner, as a part of their return required by this act, a statement of the net income in such form as he may prescribe, showing the gross income and deductions in accordance with the law

and regulations governing the usual federal returns of corporations not thus affiliated; and the net income thus shown shall, in such cases, be the net income taxable under this act, after making the deductions therefrom as provided in section 16.

Except as provided in the last paragraph of section 15, the term "net income" shall mean the net income for the taxable year as required to be reported by the corporation in its last prior return to the federal government, as defined in the federal revenue Act of 1918, deducting therefrom all interest received upon bonds, notes, and certificates of indebtedness of the United States and dividends received from corporations or associations, partnerships, and trusts having transferable shares, to the extent that such interest and dividend are included in net income as required to be reported to the federal government and as defined as aforesaid.

(d) Taxes against owner of stock in foreign corporations

Owner in Massachusetts is exempt, if the corporation itself pays taxes to the state, and owner is not assessed in any event under general property tax, if income from the stock is accounted for under income tax law.

11. Taxation of trusts and beneficiaries

On and after July 11, 1922, trustees of an association are required to file a copy of the instrument or declaration of trust, creating the association, with commissioner, and to pay a filing fee of \$50 (chapter 272, Acts of 1922).

Trustees pay income tax to the extent that beneficiaries are inhabitants of the commonwealth. Income from trustees outside of the commonwealth is subject to tax.

12. Stamp taxes on stock issues and transfers

Chapter 64, General Laws 1920, imposes a tax on all sales or agreements to sell or memoranda of sales or deliveries or transfers of shares or certificates of stock in any domestic or foreign corporation, whether made upon or shown by the books of the corporation, or by any assignment in blank or by delivery, etc. of all corporations, whether domestic or foreign, and according to regulation by the tax commissioner, it applies to shares of all voluntary associations existing under a written instrument or declaration of trust where the beneficial interests are divided into transferable shares.

The tax is 2 cents on each \$100 of face value or fraction thereof, except in the case of shares issued without face value, in which case the tax is at the rate of 2 cents for each and every such share.

The tax is paid by attaching the stamps prepared for the purpose, which are canceled.

Stamps for payment of this tax are procurable from the Old Colony Trust Company, Court Street, Boston.

The tax is under the supervision of the tax commissioner, Boston, from whom may be secured a copy of the law and regulations, upon request.

MICHIGAN

(Revised to May 15, 1922)

1. General features of tax system

The Constitution of Michigan, adopted in 1850, prescribed the general property tax for state and local purposes, but also permitted the Legislature to levy "specific" taxes upon certain classes of corporations for certain state purposes, mainly education, such specific taxes to be in lieu of all other taxes. Since then a new Constitution has been adopted, going into effect January 1, 1909. Although the changes made in the revenue system by the new Constitution are not very extensive, they materially strengthen the power of the Legislature to impose the specific taxes referred to above. Authority is also conferred to provide for the assessment of all public service corporations at the true cash value of their property. It also makes distinct and clear provision for the taxation of corporations either by the specific or ad valorem method.

2. Where pamphlet copies of tax laws, etc., may be secured

Copy of the Inheritance Tax Law may be secured from the Auditor General, Lansing, Mich.

3. State taxing officials

Board of State Tax Commissioners and State Board of Assessors, Lansing, Mich.

4. Income tax

There is no income tax in Michigan.

5. General property tax

(a) Base

All property, real and personal, within the jurisdiction of the state, not expressly exempted, is subject to this tax.

"Real property" includes all lands within the state, and all buildings and fixtures thereon and appurtenances thereto. Real estate is assessed, in the township or place where situated, to the owner, if known, or to the occupant, if the owner is unknown, and either or both shall be liable for the taxes; if there be no owner or occupant known, then as "unknown." Possessory claims to homestead lands are assessed as personal property. A very elaborate system of appraisal of mining property is in use.

"Personal property" includes all moneys; all annuities and royalties; all goods, chattels, and effects within the state; all goods, chattels and effects belonging to inhabitants of the state, situated without the state, except property actually and permanently invested in business in another state; all credits of every kind belonging to inhabitants of the state, over and above the amounts owed by them; all shares in corporations organized under the laws of the state, when the property of such corporations is not exempt or is not taxable in itself, or when the personal property is not taxed; all shares in banks within the state, at their cash value, after deducting the assessed value of real property of the banks; all shares of foreign corporations, except national banks, owned by citizens of the state; all buildings and improvements upon leased lands, except where the value of the real property is also assessed to the lessee or owner of such buildings and improvements, etc.

(b) Exemptions

(1) Public property; property of library, benevolent, charitable, educational, and scientific institutions.

(2) Mortgages are subject to a specific or recording tax of 50 cents for each \$100 and each remaining major fraction thereof of the debt secured by the mortgage, upon real property situated in the state, recorded on or after January 1, 1912.

(c) Assessments

There is in reality no state assessment. The only function of the State Board of Equalization is to make an estimate of the value of each county in the state and to apportion the state tax to the several counties according to that estimate. In this apportionment, the county is the unit, and the state tax is apportioned to the smaller county divisions according to a similar equalization made by the local board of supervisors. The tax is then apportioned to the individual taxpayer according to the assessment made by the local assessing officer, reviewed by the local board of review or by the Board of State Tax Commissioners, where the power of review has been exercised by that board. While the taxes collected from the corporations assessed by the State Board of Assessors are in a sense a state tax, they are not in any way used for state purposes, but are distributed to the primary school districts of the state according to the school population of each district, and are used only for school purposes.

The assessment of all property is made annually. Property is assessed to the owner or person in possession, and personal property in general follows the situs of that person, except in specified cases, in which, on account of liability to evasion, the situs of the property itself is preferred. The supervisor must require a sworn statement from every person "of full age

and sound mind" as to his property, and he may require persons claiming to have no property to take oath to that effect. The value assigned to the property by the owner is not taken as conclusive, it being the duty of the supervisor to make the valuation at the "cash value," or usual selling price, where the property is. Willful neglect or refusal to furnish a statement of property owned or in control of a person, member of a firm, or officer of a corporation is deemed a misdemeanor, and is punishable by imprisonment for not less than 30 days nor more than 6 months, or by a fine of \$100 to \$1,000, or both. Corporations in general are assessed precisely as individuals, but certain classes of corporations are assessed upon their property by the State Board of Assessors. Banks are assessed upon their real estate only; shares of the capital stock being assessed at their cash value (less the value of the real estate) to the stockholders, and at the place where the bank is located. Shareholders residing in other townships in the same county in which the bank is located are assessed for their shares in their home townships. The cashier of the bank is made the agent of the shareholders for the payment of the tax. Private banks are assessed on their tangible property, plus the excess of their credits over their deposits and debts.

Corporations generally, except railroad, insurance, telegraph, telephone, and banking companies, and others whose assessment is specifically provided for, are assessed upon their real property, plus the difference between that and the market value of the stock, which is taken to represent their personal property or franchises, and to this may be added the excess of their credits over their bona fide debts. Navigation companies are not subject to the general property tax. All steam vessels are subject to a tonnage tax, payable annually, and are thereafter exempt from the general property tax. The ton-

nage tax is at the rate of 20 cents per net ton on passenger and 10 cents per net ton on freight vessels.

Shares of stock in and evidences of indebtedness of all railroad companies in the state are not taxable in the hands of the holders, as the assessment made by the State Board of Assessors covers the entire property of the railroad company.

(d) Rate

The rate for state purposes is determined by the State Board of Assessors each year strictly by apportionment, an apparent exception being the so-called mill tax (three-eighths of 1 mill) on the equalized valuation of the state for the support of the University. The Legislature makes such appropriations as it sees fit, and directs in a general way the total amount of money to be raised. The Auditor General certifies to the clerk of each county (the clerk acts as county auditor) that proportion of the total amount to be raised for state purposes which the equalized valuation in each county bears to the total equalized valuation of the state as previously fixed by the State Board of Equalization. There is thus no universal "state rate," save in connection with the state assessment.

(e) Collection

In general, all taxes, state and local, except those called "specific" (which still include the tax on railroads, etc., under the new law), are collected by the township or city treasurers. The taxes due from taxpayers become a debt to the city or township, and are secured by a lien on the property, attaching on the 1st day of December. Taxes are delinquent on the 10th day of January, when the collection fee becomes 4 per cent.; but, if the treasurer is apprehensive of the loss of any personal tax, he may proceed to collect it by seizing the property and bringing suit in December, and in that case the

collection fee is 4 per cent. After the 10th of January the treasurer makes a personal demand on each taxpayer who is delinquent, and in case payment is not made he collects by seizure and sale. The respective portions of the state and county are turned over to the county treasurer, who transmits the state's portion to the state treasurer.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real or personal, of the value of \$100 or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations not exempt by law from taxation on real or personal property, in the following cases:

First. When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of this state;

Second. When the transfer is by will or intestate law of property within the state, and the decedent was a nonresident of the state at the time of his death.

Third. When the transfer is of property made by a resident or by nonresident, when such nonresident's property is within this state, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect, in possession or enjoyment, at or after such death. Such tax shall also be imposed when any such person or corporation becomes beneficially entitled in possession or expectancy to any property or the income thereof by any such transfer, whether made before or after the passage of this act.

Fourth. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this act, such

appointment, when made, shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Property passing to wife, grandfather, grandmother, father, mother, husband, child, brother, sister, wife or widow of son, husband of daughter, adopted child, mutually acknowledged child, at rates ranging from 1 per cent. on amount over exemption to \$50,000 to 3 per cent. on amount over exemption over \$500,000. The amount of exemption is \$2,000, except in case of wife, where the exemption is \$5,000.

All others, at rates ranging from 5 per cent. on amount over \$100 to \$50,000 to 15 per cent. on amount over \$100 over \$500,000.

Property passing for charitable, religious, educational, or public purposes in state, entirely exempt from this tax. The exemptions are not allowed, if the entire transfer is in excess of the exemption.

In case of nonresidents: All property within the state, subject to same rate of taxation as the property of residents, with the following exceptions:

Collateral relations not residing in the United States, strangers in blood not residing in the United States, and corporations not chartered by the United States or by any other state, at the rate of 25 per cent. on amount over \$100.

(b) Official in charge of administration and collection

Attorney General, Lansing, Michigan.

(c) When inheritance taxes are due—Discount and penalties

Tax is due at time of transfer; 5 per cent. discount is allowed if paid within one year. If not paid in 18 months, 8 per cent. is added from time tax accrued, except, when determination is delayed, rate is 6 per cent.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property tax as described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

Franchise fee (1 mill—\$1 per \$1,000) on each \$1 of authorized capital, but not less than \$25. In case of shares without par value, the shares shall be deemed to have a value of \$1 or such greater value as may be fixed for the sale of the shares.

Filing\$5.00

Recording (20 cents per folio), about..... 4.00

Certifying (2 copies necessary)..... 5.00 each.

Fee to county clerk:

Recording (20 cents per folio), about \$4.

(c) Franchise taxes

Annual franchise tax of $3\frac{1}{2}$ mills on each dollar of paid-up capital and surplus, but not less than \$50 nor more than \$10,000, payable at time of filing annual report. If company has property outside of the state, the tax is only on the proportion of the capital and surplus represented in Michigan. A corporation paying the organization tax shall be deemed to have paid the annual tax for the year of organization.

Special provisions are made in the case of certain public service corporations, insurance companies, river improvement companies and kindred organizations.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are, in addition to general property taxes, subject to entrance and annual fees.

(b) Entrance fees

Every foreign corporation for profit, hereafter applying for admission to do business within this state, shall, at the time of applying for admission, pay to the Secretary of State, for the privilege of exercising its franchises within this state, a sum equal to one mill upon the dollar for each dollar of the authorized capital stock of such corporation; and each corporation, heretofore or hereafter incorporated under the laws of or admitted to do business in this state, shall pay a proportionate fee upon each and any increase in its authorized capital stock made subsequent to the passage of this act: Provided, that, in the case of foreign corporation, such fee shall be computed upon that portion of its authorized capital stock represented by the portion of its property owned and used in Michigan: And provided further, that in no case, either as to a domestic

or a foreign corporation, shall the organization fee be less than twenty-five dollars.

To the Secretary of State, for filing and examining articles or certificates of incorporation, and other papers connected with the application for admission to do business in Michigan, \$10.

(c) Annual fees

Every corporation organized or doing business under the laws of this state, excepting those hereinafter expressly exempted therefrom, shall, at the time of filing its annual report with the Secretary of State of this state, as required by section 7 hereof, for the privilege of exercising its franchise and of transacting its business within this state, pay to the Secretary of State, an annual fee of $3\frac{1}{2}$ mills upon each dollar of its paid-up capital and surplus computed upon the proportion of the corporation's property owned and used in Michigan, in the ratio that such property bears to the entire property of the corporation; but such privilege fee shall in no case be less than \$50 nor more than \$10,000.

Every corporation, whether domestic or foreign, having paid the initial organization fee, or the admission fee, prescribed in sections 2 and 3 of this act, as the case may be, shall be deemed to have made a full payment of the annual or periodic privilege fee for such year of organization or admission.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations is subject to taxation as personal property to the owner in the assessing district in which he resides. This does not apply to stock in national banks. Under a court's ruling, allowance is made in the assessment of stock in a foreign corporation for property owned by the corporation and assessed in the state of Michigan.

11. Taxation of trusts and beneficiaries

Estates of deceased persons in the hands of a trustee are subject to taxation in the assessing district in which the deceased last dwelt, until notice is served upon the assessing officer that the estate has been distributed to the legatees or beneficiaries under the will. After such distribution, the personal property still held under the control of the trustee is assessed in the township in which the trustee resides.

MINNESOTA

(Revised to May 15, 1922)

1. General features of the taxing system

In Minnesota, the prevailing system of taxation, except as to certain special forms of taxation, is known as the "general property tax."

Of the special forms of taxation referred to, the most important are those which impose a gross earnings tax upon various public utility corporations, a registry tax on real mortgages, a special tax on moneys and credits, motor vehicles, and gross premiums of insurance companies, an occupation tax on the occupation of mining iron ore, and inheritance taxes.

Of less importance are those forms which apply a special tax on grain in elevators, vessels employed in the navigation of international waters, telegraph companies, trust companies not doing a banking business, and some others of a minor character.

Although a considerable amount of revenue is derived from special forms of taxes, separation of state and local revenues has not yet been accomplished.

In a general way, revenue from all sources of taxation may be divided into two classes, namely: First, those derived from the general property tax; and, second, those derived from special forms of taxation. Revenue derived from the first class is applied to both state and local purposes. Of the second class, revenue from the gross earnings tax, on railroads, sleeping car companies, telephones, freight lines, and

express companies, as well as the ad valorem taxes from telegraph companies and the tax on grain in elevators, is paid into the state treasury and devoted exclusively to state purposes.

Revenue from the tax on motor vehicles, while paid into the state treasury, is credited to a "trunk highway fund" and applied to the construction and improvement of public highways panies, while paid into the state treasury, is ultimately paid into the state treasury and credited to the general revenue fund of the state.¹

Revenue from the tax on gross premiums of insurance companies, while paid into the state treasury, is ultimately paid over to the various municipalities in aid of their fire departments. Revenue from all other special forms of taxation referred to is applied to both state and local purposes.

Revenue paid into the state treasury, and intended primarily for state purposes, is more than ample to pay the expenses of state government. As a result, a considerable portion of the excess, over and above actual state expenditures, is apportioned annually by the Legislature in aid to public schools throughout the state, roads, armories, county fairs, and various other local public purposes.

2. Where pamphlet copies of tax laws, etc., may be secured

The Assessor's Manual, issued by Tax Commission; pamphlet copy of Corporation Law, issued by Attorney General, contains corporation tax laws. Pamphlet copy of inheritance tax law, also tables showing rates and exemptions, may be secured from the Attorney General.

¹ The constitutionality of this law has been questioned and is at present pending in the federal courts.

3. State taxing officials

Minnesota Tax Commission, State Capitol, St. Paul, Minnesota.

4. Income tax

There is no income tax in Minnesota.

5. General property tax

(a) Base

All real and personal property in this state, and all personal property of persons residing therein, including the property of corporations, banking companies, and bankers, is taxable, except such as is by law exempt from taxation. Section 1969, G. S. 1913. This section means that all real and personal property in the state which is not subject to a gross earnings or other lieu tax, or specifically exempted from taxation, is subject to a general property tax.

"Real property" includes, for the purposes of taxation, the land itself, and all buildings, structures, and improvements or other fixtures, of whatsoever kind, thereon, and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries, fossils, and trees on or under the same.

Real estate mortgages are covered by the mortgage registry tax. The tax is imposed *on all mortgages* upon real property situate in this state, except as to mortgages *taken in good faith* by persons or corporations whose personal property is expressly exempted from taxation by law, or is taxed upon the basis of gross earnings, or other methods of commutation in lieu of all other taxes. The tax, as its name implies, is a registration tax, and is imposed at the time the mortgage is filed for record and as a prerequisite to recording it. The payment of

the registry tax exempts the obligation secured from all other taxes. If the mortgage is not recorded, the obligation secured thereby is taxable the same as any other credit.

Lands of any railroad company operating a line in this state are not exempt from a general property tax, by virtue of the gross earnings tax law, unless such lands are devoted to railroad purposes. When not used for railroad purposes they are taxable in the ordinary way, unless expressly exempted by the charter of the corporation.

Where the charter so provides, or where such lands are expressly exempted from taxation by virtue of a state or federal land grant, they become the subject of taxation only when leased, sold, or contracted to be sold or leased.

Whenever a contract of sale, or any other writing or instrument whatever, is issued by any railroad company to any person with a view to secure to the person any right, title, or interest in land, that interest becomes taxable to the holder as other real property in the state.

"Personal property," for purposes of taxation, includes:

1. All goods, chattels, moneys, and effects.
2. All ships, boats, and vessels, belonging to inhabitants of this state, whether at home or abroad, and all capital invested therein.
3. All improvements made by others upon lands the fee of which is still vested in the United States, and all improvements, including elevators and other structures, upon lands the title of which is still vested in any railroad company or other corporation whose property is not subject to the same mode and rule of taxation as other property.
4. All stocks of nurserymen, growing or otherwise.
5. All gas, electric, and water mains, pipes, conduits, subways, poles, and wires of gas, electric light, water, heat, or

power companies wherever constructed or located and all tracks, roads, and bridges of street railway, plank road, gravel road, turnpike and bridge companies, together with the conduits, poles, and wires of such companies, erected or laid in connection therewith.

6. Credits of every kind.

7. The income of every annuity, unless the capital of the annuity be taxed within the state.

8. All public stocks and securities.

9. All personal estate of moneyed corporations, whether the owners thereof reside in or out of the state.

10. All shares in foreign corporations owned by residents of this state.

11. All shares in banks organized under the laws of the United States or of this state.

(b) Exemptions

Property to the extent herein described is exempt from taxation:

1. All public burying grounds.

2. All public schoolhouses.

3. All public hospitals.

4. All academies, colleges, and universities, and all seminaries of learning.

5. All churches, church property, and houses of worship.

6. Institution of purely public charity.

7. All public property exclusively used for any public purpose.

8. Personal property of every head of a family liable to assessment and taxation of the value of \$100.

The county auditor shall deduct such exemptions from the total valuation of such property as equalized by the Tax Com-

mission, assessed to such person, and extend his levy of taxes upon the remainder only.

(c) Assessment

For the purpose of imposing a general property tax, personal property is assessed annually and real estate biennially every even-numbered year, with reference to its value on May 1st. Property subject to this tax is divided into four classes, and each class assessed at a different percentage of true and full value. The first class covers iron ore, whether the same is mined or still in the ground, and is assessed at 50 per cent. of its true and full value. The second class covers household goods and all other property used to equip the family residence, and is assessed at 25 per cent. of full and true value. The third class covers live stock, agricultural products, merchandise, manufacturers' materials and products, tools, implements, and machinery, and all unplatted real estate, and is assessed at $33\frac{1}{3}$ per cent. of full value. The fourth class covers all platted real estate and all personal property not included in the first three classes, and is assessed at 40 per cent. of full value.

It is the duty of every person required to list personal property for taxation to make out and deliver to the assessor, upon blanks furnished by him, a verified statement of all personal property owned by him on May 1st, each year.

From such list and from a view of the property, or, in event of failure to list, from such other information as he may possess, the assessor determines the value of the personal property, setting down in his assessment book, the true and full value of each article of personal property, and in separate columns the assessed value according to the class in which the property belongs. As to the real estate, the assessor shall ac-

tually view, when practicable, and determine the true and full value of each tract or lot listed for taxation, including the value of all improvements and structures thereon, and, like personal property, enter in his assessment book the true and full value of each tract of real property assessed by him, and in separate columns the assessed value according to the class in which the property belongs.

In odd-numbered years, it is the duty of assessors to make adjustments in certain real property valuations, by reason of new structures added since the previous assessment, as well as losses by fire, etc.

Shares of stock in corporations, whose property is otherwise taxed in this state, need not be listed as a credit.

Under the present moneys and credits law of this state, no deductions are allowed for debts. See Assessors' Manual, p. 51.

Except where corporations are taxed under special laws on their gross earnings, or some other special form of taxation, the method followed is to list and assess all their property, real and personal, subject to the jurisdiction of this state, the same as like property of other persons, and to list and assess their capital stock in accordance with section 2015, G. S. 1913. See Assessors' Manual, p. 47.

Under this section it will be observed that *all indebtedness* is not deducted in arriving at the taxable value of "bonds and stocks."

Bank stock is assessed where the bank is located. The accounting officer of the bank furnishes a statement of the stockholders, and the number of their shares. See pages 42, 43, 44, 45, and 46 of the Assessors' Manual.

Every person, firm, or corporation operating a grain elevator or warehouse in this state is taxed, in lieu of all other tax-

es, one-half mill per bushel upon all wheat and flax, and one-fourth mill per bushel upon all other grain, received or handled by such elevator or warehouse during the preceding year. See Assessors' Manual, p. 60.

The law provides for a separate listing of moneys and credits, and imposes a flat tax rate of 3 mills on the dollar in lieu of all other taxes. "Money" includes all forms of currency in common use, whether in hand or on deposit in a bank; "credits" include book accounts, notes, bonds, accrued rents, annuities, and mortgages upon which no tax has been paid. No deduction is allowed for debts. Moneys and credits taxable under the act are listed and assessed separately on blanks furnished by the Tax Commission, and the assessment is reviewed and equalized like other personal property. See pages 51 to 58 of the Assessors' Manual.

Under the mortgage registry tax, if the mortgage by its term is due and payable not more than five years after its date, the tax imposed is 15 cents upon each \$100, or fraction thereof, of the obligation secured thereby. If the mortgage matures more than five years after its date, the tax is 25 cents upon each \$100 or fraction thereof.

(d) Rate

State taxes are levied by the Legislature in specific amounts, and the rate necessary to produce the amount is certified by the State Auditor to each county auditor, on or before October 1st. County taxes are levied by the county board, and are based upon an itemized statement of expenses for the ensuing year, which statement must be published with the proceedings of the board. City, village, town, and school district taxes are voted in specific amounts, and the amounts certified to the county auditors on or before October 10th.

(e) Collection

The county treasurer is the collector of all general property taxes, whether levied by the state, county, city, village, township, or school district.

Under the law, the treasurer, if directed by the county board, may visit such places in the county as he deems expedient, for the purpose of receiving taxes. The practice, however, is rarely, if ever, resorted to. Quite generally local banks act as collectors of taxes for taxpayers living in their locality.

Personal property taxes are payable, without penalty, any time between the first Monday in January and the 1st day of March. If not paid before March 1, a penalty of 10 per cent. is added. Personal property taxes are a direct obligation against the owner, and not a specific lien against the property assessed. If such taxes are not paid before the fifth secular day in April, appropriate judicial proceedings are instituted to collect the same, and, if uncollected, the amount of taxes due, with penalty, interest, and costs, is eventually placed in judgment, and the judgment becomes at once a lien on all unexempt property belonging to the delinquent.

Real estate taxes can be paid without penalty any time between the first Monday in January and the 1st day of June. Unless one-half of the tax is paid before June 1st, a penalty of 10 per cent. is added. If one-half of the tax is paid before June 1st, the balance is not delinquent until November 1st. If the tax is delinquent January 1st, an additional penalty of 5 per cent. is added to the entire tax.

If the real estate taxes are not paid before February 1st, judicial proceedings are instituted, judgment obtained, and the real estate upon which taxes are delinquent is sold to pay the taxes, penalties, interest, and costs against the same.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer of property, real, personal, or mixed, or any interest therein, or income therefrom, in trust or otherwise, to any person, association, or corporation, except county, town, or municipal corporation, within the state, for strictly county, town, or municipal purposes, in the following cases:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state.

(2) When a transfer is by will or intestate law of property within the state or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death.

(3) When the transfer is of property made by a resident, or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death.

(4) Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer, whether made before or after the passage of this act.

(5) Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, and whenever any person

or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Property passing to wife, or lineal issue, at rates ranging from 1 per cent. on amount over \$10,000 to \$15,000 to 4 per cent. on amount over \$10,000 over \$100,000. Husband, legally adopted child, mutually acknowledged child, lineal issue of adopted or mutually acknowledged child, or lineal ancestor, at rates ranging from 1½ per cent. over amount of exemptions to \$15,000 to 6 per cent. over amount of exemption over \$100,000.

The amount of exemption to beneficiaries of this class is \$10,000, except in case of lineal ancestor, when the exemption is \$3,000. Brother, sister, descendant of brother or sister, wife or widow of son, or husband of daughter, at rates ranging from 3 per cent. on amount over \$1,000 to \$15,000 to 12 per cent. on amount over \$1,000 over \$100,000. Brother or sister of father or mother, or descendant of brother or sister of father or mother, at rates ranging from 4 per cent. on amount over \$250 to \$15,000 to 16 per cent. on amount over \$250 over \$100,000.

All others, at rates ranging from 5 per cent. on amount over \$100 to \$15,000 to 20 per cent. on amount over \$100 over \$100,000.

Property passing for public, charitable, scientific, religious, literary, or educational purposes in state, entirely exempt.

All property of nonresidents within state subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

Assistant Attorney General in charge of Inheritance Tax Matters, St. Paul, Minn.

(c) When inheritance taxes are due—Discount and penalties

Due within one year from decedent's death. No discount. After one year, interest at 7 per cent. from date of death is charged, which may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization taxes. There is no annual franchise tax.

(b) Organization taxes

Fee to State Treasurer on authorized capital of \$50,000 or less, \$50; each additional \$10,000, \$5. This fee does not apply to corporations formed and operated solely for cattle-raising, agricultural, beet-growing and fruit-canning purposes, or for telephone companies connecting places of less than 2,000 inhabitants. These companies pay no fee aside from the expense of recording.

Fee to Secretary of State: Recording, 15 cents per folio, about \$3. Issuing certificate of incorporation, \$1.

Fee to register of deeds: Recording, 20 cents per folio. Advertising charter two times, from \$15 to \$20.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance fees only.

(b) Entrance fees

Such corporation shall pay into the state treasury \$50 for the first \$50,000 or fraction thereof of such proportion of capital stock, and a further sum of \$5 for every additional \$10,000 or fraction thereof of such proportion of capital stock, and no increase of the capital stock of any such corporation shall be valid or effectual until the corporation shall have paid into the state treasury \$5 for every \$10,000 or fraction thereof of such increase of said proportion of capital stock of such corporation. In determining the proportionate share of the capital stock upon which license fees shall be paid as aforesaid, the business of said corporation transacted in and out of this state during the year immediately preceding the filing of its articles or certificate as above provided for shall be considered and shall control. Section 6207.

To Secretary of State, for filing appointment of agent, \$2.

(c) Annual franchise taxes

None.

(d) Taxes against owner of stock in foreign corporations

Under the moneys and credits law, a tax of 3 mills on each dollar is imposed against the owner of stock in all foreign corporations, whose property is not otherwise taxed in Minnesota.

11. Taxation of trusts and beneficiaries

Property held in trust is listed and assessed the same as like property of individuals. Personal property is listed by the trustee on behalf of the beneficiary, and is listed and assessed in county, town, or district where such trustee resides. Real estate is assessed where located, in the name of the trustee. See pages 33 and 36 of Assessors' Manual.

MISSISSIPPI

(Revised to May 15, 1922)

1. General features of tax system

The revenue system of Mississippi is distinguished by an elaborate system of privilege taxes for state revenue. There are the general property and poll taxes, an income tax, adopted in 1912, and an inheritance tax. Most corporations are taxed on their property by the ad valorem tax, together with a privilege tax, but freight line and car equipment companies pay a "gross earnings" tax. Telegraph, express, sleeping car, and insurance privileges are taxable only by the state, but counties and municipalities may also lay taxes on other privileges up to 50 per cent. of the state tax.

Drainage districts, under government of commissions, obtain revenue from betterment taxes or special assessments.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of General Instructions to Assessors, and also copy of the Inheritance Tax Law, may be obtained by addressing the State Tax Commission, Jackson; also pamphlet copies of Privilege Tax Laws may be obtained from the Auditor of Public Accounts, Jackson, Mississippi.

3. State taxing officials

State Tax Commission, Jackson, Mississippi.

4. Income tax

A tax of 5 mills on the dollar for the general revenue fund of the state is levied on all annual incomes which exceed

\$2,500. The word "income," as used in the act, is deemed and taken to mean "gross profits," provided that no reduction is allowed for any amounts paid out for permanent improvements made to increase the value of any property or estate, or for the increase of capital or capital stock. When the income is derived from property on which an ad valorem tax is paid, the amount of the ad valorem tax is deducted from the income. The assessors obtain from persons liable to the tax a sworn statement of their income, which is forwarded to the State Auditor, who computes the tax, and furnishes the county collectors with the list. The time and method of collection are the same as for other state taxes.

5. General property tax

(a) Base

All property, except that specially exempted by law, is subject to taxation.

"Personal property," as defined in the statutes, includes goods, chattels, effects, evidences of rights of action, and all written instruments by which any pecuniary obligation, or any right, title, or interest in any real or personal estate shall be created, acknowledged, transferred, incurred, defeated, discharged, or diminished. Property includes personal property as defined above, and also every estate, interest, and right in lands, tenements, and hereditaments.

(b) Exemptions

(1) In addition to public property, all property for cemetery, religious, charitable, educational, hospital, library, etc., purposes is exempt.

(2) All notes and evidences of indebtedness and all money loaned at a rate of interest, not exceeding 6 per cent.

(c) Assessment

There is one assessment for state, county, and municipal purposes. The taxpayer is required to furnish the assessor with a sworn list of the items and their value of all taxable personal property as of February 1. Lands are assessed between February 1 and July 1 in every second year. Property is valued at the price it would bring at a voluntary sale, but the valuation given by the owner may be, upon the report of the assessor, corrected by the board of supervisors, who also adjust the assessment rolls in case of error, or change in value or ownership. Real estate is assessed in the county where located and personal property where located on February 1. Money on deposit or loaned at interest, either within or without the state, is assessed and taxed where the owner resides. Shares of bank stock, state or national, are assessed to the shareholders upon a statement by the bank officers of the value of the share augmented by accumulations, surplus, and unpaid dividends, and exclusive of the real estate of the bank. The taxes thereon are to be paid by the bank to the county collector at the state and county rate. Real estate of the bank is taxed as other real estate.

(d) Rate

The state ad valorem tax levies for 1920 and 1921 were fixed by the Legislature at 9 mills on the dollar.

(e) Collection

Taxes for state and county are collected by the sheriff, who is ex officio collector for the county. It is the duty of every person assessed to pay taxes on or before December 15. All taxes delinquent at that date are to be collected immediately by distress and sale of any personal property liable therefor. After January 15 the tax collector may advertise the sale of

land for taxes on the first Monday in April. Taxes are a lien from February 1 of the assessment year.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer by a resident of this state of any real property within the state, or any tangible or intangible personal property, or interest therein or income therefrom, and by a nonresident of this state of any real estate, and such corporeal, tangible personal property capable of having a situs of itself, located within this state, or any interest therein, not including for nonresidents such intangible property as money on hand or on deposit, shares of stock, bonds, notes, credits, and evidences of debt, to any person or persons, in trust or otherwise, as a tax upon the right to receive, in the following cases:

(1) When the transfer is under a will or by the statutes of descent and distribution of this state.

(2) When the transfer is made by deed, grant, bargain, sale, or gift, without valuable and adequate consideration, and in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Such tax shall be imposed when any such person becomes beneficially entitled, in possession or expectancy, to any property, or interest therein, or the income therefrom by any such transfer, whether made before or after the passage of this act.

(3) Whenever any person shall exercise a power of appointment, derived from any disposition of property made, whether before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the pro-

visions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and has been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, and shall take effect at the time of such omission or failure.

(4) Whenever any person during his life shall appoint a trustee, naming himself or others as beneficiaries, and providing for the administration of such trust after his death or providing for a termination of said trust and a distribution of the trust estate or any part thereof at his death, a transfer taxable under the provisions of this act shall be deemed to take place upon the death of the creator of said trust.

Property passing to wife, grandparent, parent, husband, child, brother, sister, nephew, niece, wife, or widow of son, husband or widower of daughter, adopted child, mutually acknowledged child, lineal descendant born in lawful wedlock, at rates ranging from one-half of 1 per cent. on amount over exemption to \$25,000 to 3 per cent. on amount over exemption over \$1,000,000. The exemption is \$4,000 to each beneficiary, except wife or minor under 18, in which case the exemption is \$7,500. All others, at rates ranging from 5 per cent. on amount over \$500 to \$25,000 to 8 per cent. on amount over \$500 over \$1,000,000.

Associations exempt by law from taxes, or engaged in benevolent, charitable, educational, or public work, and not for pecuniary profit, are entirely exempt.

Property of nonresidents within state, except intangible property, such as money, shares of stock, bonds, or notes, is subject to tax at the same rates as property of residents.

(b) Department in charge of administration and collection
State Tax Commission, Jackson, Mississippi.

(c) When estate and inheritance taxes are due—Discount and penalties

Estate tax is due upon notification of amount by the Tax Commission. No discount. If not paid within 30 days, 8 per cent. interest per annum is added. Tax on shares of beneficiaries is due within 6 months from qualification by executor or administrator, etc. Discount of 4 per cent. is allowed, if paid within the 6 months. If not paid within 15 months, interest at 8 per cent. per annum is added, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to an ad valorem tax on their land, which is assessed like that of individuals; also to an organization tax. There is no annual franchise tax.

(b) Organization taxes

Fees to Secretary of State:

For recording the charter of each domestic corporation for profit, with a capital stock of \$5,000 or less, \$20. All charters in excess of \$5,000 up to and including \$25,000 of capital shall be charged for at the rate of \$20 for the first \$5,000 of capital, and \$2 per \$1,000 or part thereof on each \$1,000 in ex-

cess of the first \$5,000. All charters in excess of \$25,000 shall be charged for at the rate of \$20 for the first \$5,000 of capital stock and \$2 per thousand additional on each \$1,000 or part thereof, in excess of the first \$5,000: Provided, that no fee for recording any charter shall be more than \$500.

Fee to clerk of chancery court:

Recording charter, about \$3. Advertising charter for 3 weeks, usually \$3 for each 100 words.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance fees, computed upon the amount of their capital stock. There is no annual franchise tax.

(b) Entrance fees

The following fee shall be paid in advance to the Secretary of State, viz:

For recording the charter of each domestic corporation for profit with a capital stock of \$5,000 or less, \$26. All charters in excess of \$5,000 up to and including \$25,000 of capital shall be charged for at the rate of \$20 for the first \$5,000 of capital and \$2 per \$1,000 or part thereof on each \$1,000 in excess of the first \$5,000. All charters in excess of \$25,000 shall be charged for at the rate of \$20 for the first \$5,000 of capital stock and \$2 per \$1,000 additional on each \$1,000 or part thereof in excess of said first \$5,000: Provided, that no fee for recording any charter shall be more than \$500.

Section 2 of chapter 92, Laws of 1916, is amended so as to read as follows: "That all foreign corporations shall pay the same fees as herein provided for domestic corporations of similar character."

(c) Annual fees

None.

(d) Taxes against owner of stock in foreign corporations

Shares of stock of corporations whose property is taxed in Mississippi are not taxed to the holders; otherwise, stock is taxable against holders in the state.

11. Taxation of trusts and beneficiaries

Property is assessed to trustees at their domicile. *Millsaps v. Jackson*, 78 Miss. 537, 30 South. 756.

MISSOURI

(Revised to May 15, 1922)

1. General features of tax system

Missouri draws its revenue largely from the general property tax for state, county, and municipal purposes. This is supplemented by an extensive system of business taxes and licenses, an income tax, and an inheritance tax. There are no special corporation taxes, except a tax on the premiums of foreign insurance companies. There are, however, a number of important fees levied on insurance companies and for incorporation. The poll tax is left to the counties and municipalities.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Corporation Laws of the State of Missouri, containing the tax law on corporations, may be obtained by addressing the Secretary of State, Jefferson City, Missouri. Copy of Inheritance Tax Law may be secured from the State Treasurer.

3. State taxing officials

State Tax Commission, Jefferson City, Missouri.

4. Income tax

A tax of 1 per cent. on the entire net income of individuals is collected annually. (Was $1\frac{1}{2}$ per cent. until reduced to 1 per cent. at last session of the General Assembly.) Income

derived from every source by a resident and from all sources within the state by a nonresident, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, is subject to tax. There is also levied and collected an annual tax of 1 per cent. for 1922 and subsequent years upon the total net income received from all sources by every corporation, joint-stock company, or association organized in the state. A like tax is paid by foreign corporations upon income received from all sources within the state.

5. General property tax

(a) Base

All property, real and personal, is subject to taxation, except as specially exempted.

"Real property" includes, not only the land itself, but also the buildings, structures, improvements, and other permanent fixtures thereon, all mills, factories, and machinery connected therewith, and all rights and privileges appertaining thereto.

"Personal property" includes bonds, stocks, moneys, credits, capital stock, and every tangible thing subject to ownership not part or parcel of real property.

For the purpose of state, county, and municipal taxes, merchandise held by merchants, and the raw material, merchandise, finished products, tools, machinery, and appliances used or kept on hand by manufacturers, constitute a class separate and distinct.

(b) Exemptions

In addition to public property are: Property used for religious purposes, including churches and parsonages; schools and institutions of charity; property of agricultural and horticultural societies.

(c) Assessment

In general, there is one assessment roll, made up by the assessors of the counties, towns, and districts; but certain property is assessed by the State Board of Equalization. Every person is required to make a statement under oath of all his real and personal property, with the value thereof, as of the 1st of June in each year. Penalty for refusing to take the oath is a fine of \$10 to \$1,000. The assessor is to assess all property at its true value in money or the cash price at the time of listing; but, if a person fails to make his statement, the assessor is to list the property at double its value, or at treble the value in case of a fraudulent list. Mortgages on real property are assessed as personal property, and the mortgagee is required to give them in for taxation, while the land is also taxed on its assessed value, without deducting the value of the mortgage. Shares of stock in banks and insurance companies are assessed at their true value in money, less the value of the real estate represented by them, together with all reserve funds, undivided profits, premiums, and earnings. Insurance companies doing business on the mutual plan without capital stock are to make return of the net value of all assets. The taxes assessed on the shares of stock or net assets are to be paid by the corporation, and may be recovered by it from the shareholders. Shares of stock in manufacturing companies are not subject to taxation against the owners. Taxes on shares of stock in an insurance company and building and loan association are payable by the owners thereof, and not by the corporation or association.

(d) Rate

The state tax on property, exclusive of the tax necessary to pay the bonded debt of the state, is fixed by the Constitution,

and is not to exceed 20 cents on the \$100 valuation, and whenever the taxable property of the state amounts to \$900,000,000 the rate is not to exceed 15 cents. For the payment of state indebtedness the rate is 2 cents on the \$100.

(e) Collection

Taxes are collected by the collector of revenue for the county. He gives notice when the taxpayers are to meet him and pay their taxes. After October 1 the collector may seize and sell goods and chattels as under execution, and, after January 1, 1 per cent. a month is added. Taxes are a lien on real property on which they are assessed, and after January 1 the state's liens for taxes may be enforced by suit and sale.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real, personal, or mixed, or any interest therein or income therefrom, in trust or otherwise, to persons, institutions, associations, or corporations, not hereinafter exempted, in the following cases: When the transfer is by will or by the intestate laws of this state, from any person dying possessed of the property while a resident of the state. When the transfer is by will or intestate law of property within the state, or within the jurisdiction of the state, and decedent was a nonresident of the state at the time of his death. When the transfer is made by a resident, or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale, or gift made in contemplation of the death of grantor, vendor, or donor, or intending to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale, or gift, made

within two years prior to the death of grantor, vendor, or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, without an adequate valuable consideration, shall be construed to have been made in contemplation of death, within the meaning of this section. Such tax shall be imposed when any person, association, institution, or corporation actually comes into the possession and enjoyment of the property, interest therein, or income therefrom, whether the transfer thereof is made before or after the passage of this act: Provided, that property which is actually vested in such persons or corporations before this act takes effect shall not be subject to the tax.

Property passing to husband, wife, lineal descendant, lineal ancestor, adopted child, lineal issue of adopted child, or child born out of lawful wedlock, at rates ranging from 1 per cent. on amount over exemption to \$20,000 to 6 per cent. on amount over exemption over \$400,000. The amount of exemption to husband or wife is \$20,000; to others of this class, \$5,000.

Brother, sister, or descendant thereof, wife or widow of son, husband of daughter, brother or sister of father or mother, or descendants thereof, at rates ranging from 3 per cent. on amount over exemption to 20,000 to 18 per cent. over amount of exemption over \$400,000. The exemption is \$500 to each beneficiary of this class, except brother or sister of father or mother, or descendants thereof, in which case the exemption is \$250. Brother or sister of grandfather or grandmother, or descendants thereof, at rates ranging from 4 per cent. on amount over \$100 to \$20,000 to 24 per cent. on amount over \$100 over \$400,000.

All others, at rates ranging from 5 per cent. on amount up to \$20,000 to 30 per cent. on amount over \$400,000.

Property passing for county, city, town, or municipal pur-

poses, or religious, charitable, or educational purposes within state, entirely exempt.

All property of nonresidents within state, subject to same rate of taxation as property of residents.

When the lineal descendant of decedent is idiotic, insane, blind, deformed, or otherwise mentally or physically incapacitated from performing labor, in order to make a living, \$15,000 is exempt.

The above exemption to husband or wife is in addition to the marital right of the widow or widower.

(b) Official in charge of administration and collection

State Treasurer, Jefferson City, Missouri.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. No discount. Unless time is extended because of unavoidable delay, 6 per cent. interest is added after 9 months, and 12 per cent. after one year.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization fee, annual tax on par value of outstanding capital stock, annual income tax, and annual registration fee noted below.

(b) Organization taxes

Fee to State Treasurer:

Charter tax: On authorized capital up to \$50,000, \$50.
On each additional \$10,000, \$5.

Fee to Secretary of State:

Filing articles of agreement and issuing certificate \$3. Recording, about \$3.

Fee to recorder of deeds:

Recording articles of incorporation, about \$4. Notary's fee, about \$1.50.

(c) Annual tax

An annual tax is levied of one-twentieth of 1 per cent. of the par value of the outstanding capital stock and surplus of each domestic corporation. If the corporation employs part of its capital stock outside of the state, the tax is one-twentieth of 1 per cent. of the amount of capital stock employed in the state.

Income tax

An annual income tax of one-half of 1 per cent. is levied on the total net income derived from all sources by domestic companies. For 1922 and subsequent years the rate is 1 per cent.

Annual registration fees

\$5, if the corporation registers before August 1; \$10, if the corporation registers during the month of August; \$20, if the corporation registers during the month of September; \$25, if the corporation registers during the month of October; \$30, if the corporation registers during the month of November; \$35, if the corporation registers during the month of December.

Fee for registration of trade-mark with Secretary of State, \$1.

For the purpose of fixing the organization tax, or any taxes the determination of which is based on the par value of the shares of stock, and not on the number of shares or the actual or ascertained value thereof, and for the purpose of any statutory provision limiting the relation between indebtedness

and capital stock, each share without par value shall be considered the equivalent of \$100.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to entrance, annual registration, franchise, and income taxes.

(b) Entrance fees

The entrance tax on a capital of \$50,000 or less, invested in Missouri, is \$50. In addition thereto, there is a license fee of \$10, and a fee of \$1.50 for issuing certificate. The minimum total is \$61.50. For each \$10,000 capital, or fraction thereof, invested in Missouri, in excess of \$50,000, \$5 additional must be paid.

(c) Annual registration fee

\$5, if the corporation registers before the 1st day of August; \$10, if it registers during the month of August; \$20, if it registers during the month of September; \$25, if it registers during the month of October; \$30, if it registers during the month of November; \$35, if it registers during the month of December.

Annual franchise tax

Every foreign corporation engaged in business in the state shall pay an annual franchise tax equal to one-tenth of 1 per cent. of the par value of its capital stock and surplus employed in business in the state, and it shall be deemed to have employed in the state that proportion of its entire capital stock and surplus that its property and assets in the state bears to all its property and assets wherever located, except in case of corporations not organized for profit, nor to express companies, which now pay an annual tax on their gross receipts in

the state, and insurance companies which pay an annual tax on their gross premium receipts in the state.

Income tax

An annual income tax of 1 and one-half of 1 per cent. is levied on the total net income derived from all sources within the state by foreign corporations. For 1922 and thereafter the rate is 1 per cent.

No minimum fixed for amount to be employed in state; but a corporation cannot qualify in Missouri, if authorized capital is less than \$2,000.

For the purpose of fixing the organization tax, or any taxes, the determination of which is based on the par value of the shares of stock, and not on the number of shares, or the actual or ascertained value thereof, and for the purpose of any statutory provision limiting the relation between indebtedness and capital stock, each share without par value shall be considered the equivalent of \$100.

(d) Taxes against owner of stock in foreign corporations

Owners in Missouri are not taxable under the property tax on stock in foreign corporations, but income therefrom is subject to income tax.

11. Taxation of trusts and beneficiaries

Trustees are assessed for trust property held by them.

MONTANA

(Revised to May 15, 1922)

1. General features of tax system

Montana derives its state revenue principally from the general property tax. There is a state inheritance tax, of which 40 per cent. goes to the county school fund. A business tax law was enacted in 1917. The rate is 1 per cent. on net incomes of corporations from all sources within the state. Poll taxes are for county and municipal purposes only. Business taxes and licenses are assessed by the counties, 45 per cent. of the proceeds going to the state. Municipalities may also impose business taxes and licenses.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copy of Inheritance Tax Law may be secured from assistant in charge of Inheritance Tax Matter, Board of Equalization, Helena, Montana.

3. State taxing officials

State Board of Equalization, Helena, Montana.

4. Income tax

There is no personal income tax law, but a corporate income tax is imposed. The rate of 1 per cent. is imposed on net incomes of corporations from all sources within the state. An arbitrary deduction of \$2,500 is allowed, in addition to the ordinary deductions of expenses, losses sustained, interest paid, etc.

5. General property tax

(a) Base

All the property in the state is subject to taxation, except as specially exempted.

"Real property," for the purposes of taxation, includes the possession of, claim to, ownership of, or right to the possession of land; all mines, minerals, and quarries in and under the land; all timber belonging to individuals or corporations, growing or being on lands of the United States, and all improvements, rights, and privileges appertaining thereto. "Improvements" include all buildings, fixtures, fences, and improvements, erected upon or affixed to the land, whether the title to the land has been acquired or not.

"Personal property" includes everything that is subject to ownership not included within the meaning of the terms "real estate" and "improvements."

(b) Exemptions

In addition to public property, are: Public libraries; property used for educational purposes; agricultural and horticultural societies; churches; hospitals; cemeteries; institutions of purely public charity; public art galleries and public observatories, not used or held for private or corporate profit; and the land necessary for the foregoing purposes. Rights of way, ditches, and reservoirs of irrigation districts are exempt.

(c) Assessment

The assessment of all property for state, county, and municipal purposes is made by the county assessors annually, and refers to the first Monday of March. The assessor is to require a statement under oath of all property and its value. For a false statement, or failure to render a statement, the penalty is imprisonment for not exceeding 6 months, or fine

not exceeding \$500, or both. Taxable property is to be assessed at full cash value, which is defined as the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

Mines and mining claims are to be assessed at the price paid the United States therefor, unless the surface has an independent value for other than mining purposes. They are also assessed on their net proceeds as personalty, and this forms the real basis of taxation. Banks are taxed on real estate, the same as other real estate in the county where situated, and the residue of their property, represented by shares of stock in the banks, is taxed to the individual shareholders, the same as other personal property, and the assessment thereof shall not be at a greater proportion to face value than is the assessment of other personal property. Shares of stock of banks located without the state, owned by residents, are not subject to taxation.

In making up the amount of credits which any person is required to list, he is entitled to deduct from the gross amount all bona fide debts owing by him, except notes for insurance premiums and unpaid subscriptions to societies or to the capital stock of any corporation.

The capital stock and franchise of corporations are to be listed where the principal office is located. Corporations are assessed on their property, the same as individuals. A law providing for the classification of property was enacted in 1919. It is divided into the following classes: Class 1, annual net proceeds of mines and mining claims, to be assessed at 100 per cent. of its full value; class 2, household goods and furniture, to be assessed at 20 per cent.; class 3, live stock and agricultural products, to be assessed at $33\frac{1}{3}$ per cent.; class 4, all land and town and city lots, with improvements, and manu-

facturing and mining machinery, to be assessed at 30 per cent.; class 5, moneys and credits, including state, county, and municipal bonds, but not including the moneyed capital embraced in the banking business, to be assessed at 7 per cent.; class 6, shares of stock of banks, to be assessed at 40 per cent.; class 7, all property not included in the 6 preceding classes, to be assessed at 40 per cent.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer of property, real, personal, or mixed, or any interest therein, or income therefrom, in trust or otherwise, to any person, association, or corporation, except the state or any of its institutions, county, town, and municipal corporations within the state, for strictly county, town, or municipal purposes, and corporations of this state organized under its laws, or voluntary associations, organized solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, in the following cases, except as hereinafter provided:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state.

(2) When a transfer is by will or intestate law of property within the state or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death.

(3) When the transfer is of property within this state and such transfer is made by a resident, or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after

such death. Every transfer by deed, grant, bargain, or gift, made within two years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and is without other valuable consideration, shall be prima facie presumed to have been made in contemplation of death within the meaning of this section.

Section (4) omitted.

(5) Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

(6) Whenever any property, real or personal, is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons, the right of the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property shall

be deemed a transfer of one-half or other proper fraction thereof taxable under the provisions of this act in the same manner as though the property to which such transfer relates belonged to the tenants by the entirety, joint tenants, or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant, or joint depositor, by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent.

(7) The tax so imposed shall be upon the clear market value of such property at the rates hereinafter prescribed, and only upon the excess of the exemptions hereinafter granted.

Property passing from decedent, who died prior to April 1, 1921, to father, mother, wife, husband, lawful issue, sister, brother, son-in-law, daughter-in-law, adopted child, or lineal descendant born in wedlock at 1 per cent. on entire value of personal property, if over \$7,500 in value. All others, at 5 per cent. on entire value, if over \$500; if less than \$500, wholly exempt.

When death occurred after April 1, 1921, property passing to widow, husband, lineal ancestor, lineal descendant, adopted child, or lineal issue of adopted child, at 1 per cent. on amount over exemption to \$25,000.* The exemption is \$2,000 to each beneficiary of this class, except widow, who is allowed \$10,000.

Brother or sister of descendant, son's wife or widow, husband of daughter, at rates ranging from 2 per cent. on amount over \$500 to \$25,000 to 10 per cent. on amount over \$500,000. Brother or sister of father or mother or descendants thereof, at rates ranging from 3 per cent. on amount over \$250

*State of Montana ex rel. Mary H. Murray v. Walker, State Treasurer, 210 Pac. — (July 10, 1922).

to \$25,000 to 15 per cent. on amount over \$250 over \$500,000. Brother or sister of a grandfather or grandmother, or descendants thereof, at rates ranging from 4 per cent. on amount over \$150 to \$25,000 to 20 per cent. on amount over \$150 over \$500,000.

Any other degree of consanguinity, or a stranger in blood, or a body politic or corporate, except as below, at rates ranging from 5 per cent. on amount over \$100 to \$25,000 to 25 per cent. on amount over \$100 over \$500,000. The rate of tax is not to exceed 15 per cent. of the property transferred to any beneficiary. Corporations or voluntary associations organized under the laws of Montana solely for religious, charitable, or educational purposes, who shall use the property transferred exclusively for purposes of their organization within state of Montana are not subject to this tax.

The state of Montana or any of its political subdivisions or institutions, to be used for public purposes exclusively, not subject to this tax.

(b) Official in charge of administration and collection

State Board of Equalization, Helena, Montana.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer; 5 per cent. discount is allowed, if paid within 1 year; 10 per cent. interest is added thereafter from date tax was due, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual income taxes noted below.

(b) Organization taxes**Fees to Secretary of State:**

Recording and filing certificate of incorporation and each certificate of increase of capital stock: On authorized capital up to \$100,000, \$1 per \$1,000; additional, from \$100,000 to \$250,000, 80 cents per \$1,000; additional, from \$250,000 to \$500,000, 60 cents per \$1,000; additional, from \$500,000 to \$1,000,000, 40 cents per \$1,000; additional, over \$1,000,000, 20 cents per \$1,000; minimum fee, \$50. Issuing certificate of incorporation, \$3.

Fee to county clerk:

Filing, recording, and certifying copy, about \$3.

(c) Income tax

An annual license tax of 1 per cent. on net incomes arising from sources in the state. An arbitrary deduction of \$2,500 is allowed, in addition to the ordinary deductions of expenses, losses sustained, interest paid, etc.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual income taxes.

(b) Entrance fees and taxes

Every foreign corporation, required by law to file in the office of the Secretary of State a certified copy of its charter or articles of incorporation, shall pay to the Secretary of State for the filing thereof as follows:

Upon the proportion of its capital stock then or thereafter to be represented by its property and business in Montana at the rate of 50 cents per \$1,000 for the first \$100,000; at the

rate of 40 cents per \$1,000 for any additional from \$100,000 to \$250,000; at the rate of 30 cents per \$1,000 for any additional from \$250,000 to \$500,000; at the rate of 20 cents per \$1,000 for any additional from \$500,000 to \$1,000,000; and at the rate of 10 cents per \$1,000 for any additional over \$1,000,000: Provided, however, that no fee for filing shall be less than \$20.

In determining the proportion of capital stock employed in this state, the same shall be computed by taking the gross business in dollars of the corporation in the state for the preceding year, and adding the same to the full value in dollars of the property of the corporation located in the state, and by taking the total gross business in dollars of the corporation, both within and without the state for the preceding year, and adding thereto the full value in dollars of the entire property of the corporation, both within and without the state, and by then dividing the total value in dollars of the business and property in the state by the total value in dollars of all the business and property of the corporation, the quotient thus obtained to be taken as the percentage of the capital stock represented by the business and property within the state. The Secretary of State may demand as a condition to the filing of such reports a statement, verified by the president, vice president, or secretary of such foreign corporation, showing in detail the information required for the making of the calculation aforesaid, which statement when so demanded shall be attached to and filed with such report.

Fee to Secretary of State: For filing statement, \$5; for filing notice of appointment of agent, \$5; for issuing certificate of authority, \$3.

Fees to county clerk: Filing certified copy of charter, \$1; filing statement and appointment of agent, \$1.

Corporations which have not transacted business in Montana previous to filing application papers are only required to pay the minimum fees.

(c) Annual income tax

Every corporation organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of 1 per centum upon the total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana, including the interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies, or associations whose net income is taxable under this title: Provided, however, that in the case of a corporation engaged in interstate commerce the license fee shall be based upon the net earnings of said corporation derived from its intrastate business in the state of Montana only.

From gross income there may be deducted, in connection with business done and property used in the state, ordinary business expenses, losses, depreciation, interest paid on indebtedness, taxes, and licenses paid during the year, and an additional arbitrary sum of \$2,500.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in foreign corporations are not taxable in the hands of holders in Montana, when the corporate stock of the corporation is taxed in Montana; otherwise, such shares are taxable.

NEBRASKA

(Revised to May 15, 1922)

1. General features of tax system

Nebraska draws its revenue mainly from the general property tax. Corporations pay an occupation tax, based on their capital stock, in addition to the property tax. Foreign insurance companies pay a special state tax. Considerable revenue is derived from fees and an inheritance tax. Poll taxes and practically all the business taxes and licenses are left to the counties and municipalities. All license moneys, fines, forfeitures and penalties, escheats, and individual witness fees go to the schools.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of Miscellaneous Corporations and Occupation Tax on Same may be obtained by addressing the Department of State, Lincoln, Nebraska.

3. State taxing official

State Tax Commissioner, Lincoln, Nebraska.

4. Income tax

There is no income tax law in Nebraska.

5. General property tax

(a) Base

The property included is grouped under the following classes:

- (1) All real and personal property in the state.

Only the improvements on school lands and the value of the interest of the purchaser are taxable before the right to a deed has become absolute, and these are listed as personal property.

(2) All moneys, credits, bonds, and stock, and other investments, the shares of stock in incorporated companies and associations, and all other personal property, including property in transit to and from the state, used, held, owned, or controlled by persons residing in the state; shares of capital stock of banks doing business in the state; and the capital stock of companies incorporated under the laws of the state.

(b) Exemptions

In addition to public property, are: Property used for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, provided, however, they are not run for gain or profit to either the owner or the user thereof; also, the increased value of lands by reason of line fences, and fruit and forest trees grown and cultivated thereon. Any depreciation in value of property caused by a public easement is deducted from the assessed valuation.

(c) Assessment

The assessment of all classes of property is based on its actual value, which is defined as the value in the market in the ordinary course of trade. Each precinct assessor is required, upon actual view, to list, value, assess, and return all property in the townships, precincts, cities, or wards, and villages assigned to him. The assessment refers to the 1st day of April. Real estate generally is assessed but once in two years; the last assessment being made in 1921. Taxpayers are not required to submit a statement of their realty holdings, but the assessor is assisted by all the officers, and has access to all the public records. Land and improvements are listed separately.

Improvements on leased land and on lands for which a patent has not been issued are treated as personal property.

Under the Smith Mortgage Tax Law (passed in 1911), if a clause in the mortgage given upon Nebraska real estate provides that the mortgagor should pay the tax, the mortgage is then relieved from taxation; but, if there is no such clause in the mortgage, then the mortgagee pays the tax, if any, or an interest in the real estate, only to the extent, however, that the value of the land is listed and taxed.

Personal property is listed annually on the basis of sworn statements made by the owners or holders. Schedules are furnished by the State Board of Equalization and Assessment. The making of false statement, or the refusal to list property is punishable by a fine of from \$50 to \$2,000 and may also involve prosecution for perjury. Grain brokers are assessed upon the average amount of capital invested in addition to tangible property.

Corporations generally, except those specially provided for, are assessed by the local assessors on their real estate, tangible and intangible, personalty, and franchises.

When the tangible and intangible property of domestic corporations, returned for assessment purposes, does not equal the value of their paid-up capital stock, the surplus shall be taxed as intangibles at 25 per cent. of the tangible rate.

Banks, loan and trust companies, or investment companies are assessed on their real estate and tangible personal property. The shareholders therein are assessed on the excess value of the shares over and above the value of the property assessed to the bank. The bank pays the taxes, and has a lien on the stock to secure reimbursement.

(d) Rate

The State Board of Equalization fixes the rate of the state tax for the various purposes. Intangibles are classified at 25 per cent. of the rate applied to tangible property in the locality where listed. There is no limit for levy of state general fund; that of the school tax is not less than one-half of 1 mill, nor more than 1½ mills.

(e) Collection

The county treasurer is ex officio tax collector, and all taxes levied in the county must be paid at his office. Personal taxes unpaid February 1 may be collected by distress and sale as on execution, or by civil action. Personal taxes are delinquent December 1, real taxes May 1, and both draw interest at 10 per cent. Taxes are a lien on the personal property assessed from and after the 1st day of November, and taxes on real estate are a lien on such property from the 1st day of October.

7. Inheritance taxes**(a) General scope and rates**

All property, real, personal, and mixed, which shall pass by will or by the intestate laws of this state from any person who may die seized or possessed of the same while a resident of this state, or, if decedent was not a resident of this state at the time of his death, which property or any part thereof shall be within this state, or any interest therein or income therefrom, which shall be transferred by deed, grant, sale, or gift made in contemplation of the death of the grantor or bargainor, or intended to take effect in possession or enjoyment after such death, to any person or persons, or to any body politic or corporate, in trust or otherwise, or by reason thereof any person or body corporate shall become beneficially entitled in possession or expectation to any property or income thereof.

shall be and is subject to a tax, at the rate hereinafter specified, to be paid to the treasurer of the proper county for the use of the state, and all heirs, legatees, and devisees, administrators, executors, and trustees shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed.

Property passing to father, mother, husband, wife, child, brother, sister, wife or widow of son, husband of daughter, adopted child, acknowledged child, or lineal descendant born in lawful wedlock, at 1 per cent. on amount over \$10,000. Property passing to uncle or aunt, or lineal descendant thereof, nephew or niece, or lineal descendant, at 2 per cent. on amount over \$2,000.

All others, at rates ranging from 2 per cent. on amount up to \$5,000 to 6 per cent. on amount over \$50,000. The exemption to this class is \$500, but no exemption is allowed if estate exceeds this amount.

All property of nonresidents within state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

Legal Department, State of Nebraska, Lincoln, Nebraska.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. No discount. If not paid within 1 year, interest at rate of 7 per cent. is added from date of death.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

Filing articles of incorporation on authorized capital of \$10,000 or less, \$10; \$10,000 to \$25,000, \$20; \$25,000 to \$100,000, \$50; over \$100,000, 50 cents for each \$1,000 of excess. Recording, 10 cents per folio, usually about \$2.

Fees to county clerk:

Recording, 75 cents for the first 200 words, and 1 cent for each additional 10 words. Advertising notice, from \$10 to \$20.

(c) Annual franchise taxes

An annual fee must be paid on or before July 1 as follows: When paid-up capital stock exceeds \$1,000, but does not exceed \$10,000, \$5; exceeds \$10,000 but does not exceed \$20,000, \$10; exceeds \$20,000, but does not exceed \$30,000, \$15; exceeds \$30,000, but does not exceed \$40,000, \$20; exceeds \$40,000, but does not exceed \$50,000, \$25; exceeds \$50,000, but does not exceed \$60,000, \$30; exceeds \$60,000, but does not exceed \$70,000, \$35; exceeds \$70,000, but does not exceed \$80,000, \$40; exceeds \$80,000, but does not exceed \$90,000, \$45; exceeds \$90,000, but does not exceed \$100,000, \$50; exceeds \$100,000, but does not exceed \$125,000, \$60; exceeds \$125,000, but does not exceed \$150,000, \$70; exceeds \$150,000, but does not exceed \$175,000, \$80; exceeds \$175,000, but does not exceed \$200,000, \$90; exceeds \$200,000, but does not exceed \$225,000, \$100; exceeds \$225,000, but does not exceed \$250,000, \$110; exceeds \$250,000, but does not exceed \$275,000, \$120; exceeds \$275,000, but does not exceed \$300,000, \$130; exceeds \$300,000, but does not exceed \$325,000, \$140; exceeds \$325,000, but does not exceed \$350,000, \$150; exceeds \$350,000, but does not exceed \$400,000, \$160;

exceeds \$400,000, but does not exceed \$450,000, \$170; exceeds \$450,000, but does not exceed \$500,000, \$180; exceeds \$500,000, but does not exceed \$600,000, \$200; exceeds \$600,000, but does not exceed \$700,000, \$250; exceeds \$700,000, but does not exceed \$800,000, \$300; exceeds \$800,000, but does not exceed \$900,000, \$350; exceeds \$900,000, but does not exceed \$1,000,000, \$400; exceeds \$1,000,000, but does not exceed \$10,000,000, \$400, and \$75 additional for each \$1,000,000 or fraction thereof over \$1,000,000, exceeds \$10,000,000, but does not exceed \$15,000,000, \$1,200; exceeds \$15,000,000, but does not exceed \$20,000,000, \$1,500; exceeds \$20,000,000, but does not exceed \$25,000,000, \$2,000; exceeds \$25,000,000, \$2,500.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes as above on property in the state, and to entrance and annual franchise taxes.

(b) Entrance fees

Fees to Secretary of State:

If the company qualifies under section 725, R. S. 1913, a flat fee of \$50 is collected in accordance with the following:

The Secretary of State shall keep a book, in which shall be recorded all such certificates and addresses so required to be filed with him, and shall charge, collect, and receive from any such corporation, for his services in respect of this requirement, the sum of \$50.

If the company becomes domesticated under section 586, R. S. 1913, the same fees are required as are for a domestic corporation of the same authorized capital, namely: On authorized capital of \$10,000 or less, \$10; \$10,000 to \$25,000, \$20;

\$25,000 to \$100,000, \$50; over \$100,000, 50 cents for each \$1,000 of excess.

Fee to register of deeds:

For recording power of attorney, 75 cents or \$1; varies in different counties.

(c) Annual franchise taxes

On the amount of capital used in Nebraska a foreign corporation must pay the same annual fee as that required of domestic corporations.

(d) Taxes against owner of stock in foreign corporations

Resident taxpayers of Nebraska owning stock in foreign corporations are liable to a tax on such stock at 25 per cent. of the tangible rate.

11. Taxation of trusts and beneficiaries

Parties holding in trust funds or estates are liable for a tax upon such trust at 25 per cent. of the tangible rate. The tax is against the trustee, and not the beneficiary.

NEVADA

(Revised to May 15, 1922)

1. General features of tax system

Nevada derives its revenue mainly from the general property tax. There is in addition a poll tax for the maintenance and repair of the public highways. There is an inheritance tax. The counties have an extensive system of license taxes on brokers, bankers, merchants, sheep raising, and various lines of business and amusements. The state receives a portion of the license receipts from houses of amusement and sparring matches. Municipalities are empowered to exact licenses from all lines of business, trade, and professions.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the General Corporation Laws of the State of Nevada, containing the taxes imposed on corporations, may be obtained by addressing the Secretary of State, Carson City, Nevada. A pamphlet copy of the Nevada Inheritance Tax Act may be secured from the State Tax Commission.

3. State taxing officials

State Tax Commission, Carson City, Nevada.

4. Income tax

There is no income tax in Nevada.

5. General property tax

(a) Base

All property of every kind and nature within the state, except that exempted by law, is subject to taxation.

"Real property" includes all houses, buildings, fences, ditches, railroads, toll roads, and bridges, and other structures, erections, and improvements erected upon any land, whether such land be private or public, and the ownership of, claim to, or possession of any lands in the state.

"Personal property" includes all chattels; money on hand, on deposit, or at interest; solvent debts, when the amount exceeds the same character of indebtedness of the party assessed; all locomotives, cars, and rolling stock used in operating any railroad within the state; all capital employed in trade and commerce; the capital stock of all corporations, except the capital stock of corporations organized for mining purposes; and all property not included in the term "real estate."

(b) Exemptions

In addition to public property, are:

Unpatented mines and mining claims, but not the proceeds of mines; churches and buildings used for religious worship, with their furniture and equipment; property of the Masons, Odd Fellows, and similar charitable organizations or benevolent societies, up to \$5,000; public free cemeteries; property up to \$1,000 of widows and orphans who are residents of the state. The property of the Young Men's Christian Association, including buildings, furniture, and equipment. The property of war veterans to \$1,000, when income does not exceed \$900 per annum.

(c) Assessment

The assessment made by the county assessors is the basis of taxation for state, city, town, school, road, and other taxing districts. All persons are required to make statements under oath of the items of real estate and personal property in their possession subject to taxation. The assessor determines the true cash value, which is construed to mean the amount at which the property would be taken in payment of a just debt due from a solvent debtor. Penalties for neglect or refusal to make the statement are the loss of rights before the Board of Equalization and a fine of \$10 to \$500, or imprisonment not to exceed 3 months, or both, and, for making a false list, not less than 1 and not more than 14 years' imprisonment. The assessment does not seem to refer to one particular date, but is to be made between the first Monday in March, the date of levy of taxes, and the first Monday in September, and refers to the time when made.

The proceeds of unpatented mines are assessed quarterly as personal property. From the gross yield of all ores, tailings, borax, soda, or mineral-bearing material there is to be deducted the actual cost of extracting the ore from the mine, the cost of transportation to the place of reduction, and the actual cost of reduction or sale, and the remainder, or net proceeds, is assessed and taxed at the same rate *ad valorem* as other property is taxed. Each patented mine shall be assessed at not less than \$500, except when \$100 in labor has been actually performed on such patented mine during the year, in addition to the tax upon the net proceeds, and excepting also such property as may be exempted by law for municipal, educational, literary, scientific, or charitable purposes. Patented land and land held under any state land contract is assessed for not less than \$1.25 per acre. All banks are taxed

on their real estate, and the shares of stock less the value of the real estate are assessed to the owners in the county or city where the bank is located. The bank pays the tax on the shares of stock.

Capital stock of any corporation is considered "personal property." Capital stock and bonds of a Nevada corporation are not taxable, if held by nonresidents or by foreign corporations. The owner of stock in any firm, incorporated company, or association, the entire capital of which is invested in property which is assessed, or the capital of which is assessed, shall not be assessed individually for such stock.

All the property of every bank in which no shares of stock have been issued is assessed to it in the same manner as other property is assessed to the owners thereof. No bank issuing stock is assessed upon other property than its real estate, and no stockholder in such bank is assessed on account of his property interest therein, except for his shares of stock. The shares of stock or bonds issued by any domestic corporation are not taxed by the state, when the same are held by non-residents.

Mortgages may be, but in practice are not, taxed where the property is situated.

(d) Rate

The rate of state tax is fixed by the Legislature, which convenes biennially. For 1921 the rate is 60 cents on each \$100, and 62 cents in 1922.

(e) Collection

Property taxes are collected by the county treasurer, except that taxes on personal property not secured by real estate and taxes on the proceeds of mines are collected at the time of making the assessment by the assessor, who may enforce such col-

lection by seizure and sale at public auction. Taxes on realty and personalty secured by real estate are delinquent on the 1st Monday in December, and 10 per cent. penalty is then added and collection is enforced by sale, or by suit in case the taxes exceed \$300. Judgment is to be entered for 25 per cent. in addition to the tax and a penalty of 10 per cent. Real estate is subject to lien for taxes due thereon and for taxes on the owner's personal property. Taxes on real and personal property may be paid in semiannual installments, one-half by the first Monday in December and the remaining half prior to the first Monday in June. But, if the first half is not paid by the first Monday of December, the whole tax is due and the penalty of 10 per cent. is added. When the assessor of any county assesses personal property unsecured by real estate, he immediately collects the taxes on such property, and in case of a reduction being made by the board of equalization the taxpayer is entitled to a refund of the excess paid.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any and all property within the jurisdiction of this state, and any interest therein or income therefrom, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, not hereinafter exempted, which shall pass in trust or otherwise by will or by the statutes of inheritance of this or any other state, or by deed, grant, sale, or gift made without valuable and adequate consideration in contemplation of the death of the grantor, vendor, assignor, or donor, or intended to take effect in possession or enjoyment at or after such death, as specified in this act. For the purposes of this act, the ownership of shares of stock in a corporation owning property in this state shall

be considered as the ownership of such interest in the property so owned by such corporation as the number of shares so owned shall bear to the entire issued and outstanding capital stock of such corporation and notes and other evidences of indebtedness secured by mortgage on real estate situated in this state are, and shall be, upon the owners' death, subject to the inheritance tax hereinafter provided.

Property passing to husband, wife, lineal issue, lineal ancestor, adopted child, mutually acknowledged child, or lineal issue of either, at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 5 per cent. on amount over exemption over \$500,000. The exemption to the beneficiaries of this class is \$10,000 except wife or minor child of decedent, in which case the exemption is \$20,000.

Brother, sister, descendant of either, wife or widow of son, or husband of daughter, at rates ranging from 2 per cent. on amount over \$10,000 to \$25,000 to 10 per cent. on amount over \$500,000.

Brother or sister of father or mother, descendant of either, at rates ranging from 3 per cent. on amount over \$5,000 to \$25,000 to 15 per cent. on amount over \$500,000.

Brother or sister of grandfather or grandmother, or descendants of either, at rates ranging from 4 per cent. on amount up to \$25,000 to 20 per cent. on amount over \$500,000.

Any other persons or corporations, at rates ranging from 5 per cent. on amount up to \$25,000 to 25 per cent. on amount over \$500,000.

All property of nonresidents within state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

State Comptroller, Carson City, Nevada.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death; 5 per cent. discount is allowed, if paid within 6 months. If not paid within 18 months, 10 per cent. interest is added from date tax accrued, but rate may be reduced to 7 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual taxes.

(b) Organization taxes

Payable to Secretary of State:

On capital not over \$10,000, \$10; over \$10,000, but not over \$50,000, \$25; over \$50,000, but not over \$250,000, \$100; over \$250,000, but not over \$500,000, \$150; over \$500,000, but not over \$1,000,000, \$250; each additional \$100,000 over \$1,000,000, \$10.

Shares without par value are deemed to have a par value of \$50 for the purpose of fixing the organization tax.

(c) Annual franchise taxes

Every corporation shall pay annually to the State Treasurer, at the time of making its annual report, a fee equal to one-fourth of the amount paid upon filing its original record of organization, plus one-fourth of additional payments for increases in its authorized capital stock, if any: Provided that such annual fee shall not be less than \$5 nor more than \$100.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance taxes.

(b) Entrance fees

Payable to Secretary of State:

Filing certificate of incorporation, 10 cents on each \$1,000 of authorized capital, but not less than \$25. Certified copy (when copy is furnished), \$5. Filing list of officers and name of agent, \$1.

Payable to county clerk:

Filing certificate of incorporation, \$1.

Shares of stock without par value are held to have a par value of \$100 for purposes of fees to be paid the Secretary of State upon qualifying.

(c) Annual franchise taxes

None.

(d) Taxes against owner of stock in foreign corporations

Owners of stock in foreign corporations are not taxed; but such stock becomes subject to the inheritance tax, when it is part of an estate subject to such tax.

11. Taxation of trusts and beneficiaries

Taxes are levied against trust estates as against any other property.

NEW HAMPSHIRE

(Revised to May 15, 1922)

1. General features of tax system

New Hampshire depends mainly upon the combined property and poll tax for state, county, and municipal revenues. State and county taxes are apportioned to the towns, which are held responsible for their assessment and collection, except the taxes on railroads, express car companies, and telegraph and telephone companies, which are assessed and collected by the state authorities. There are some special corporation taxes on insurance companies and savings banks, and there is an inheritance tax.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the New Hampshire statute relating to taxation may be obtained by addressing the State Tax Commission, Concord; also, copies of the Corporation Laws of New Hampshire, 1921, containing the taxes on corporations, may be obtained by addressing the Secretary of State, Concord, New Hampshire.

3. State taxing officials

State Tax Commission, Concord, New Hampshire.

4. Income tax

There is no income tax in New Hampshire.

5. General property tax

The state levy of general property taxes is apportioned to the towns and raised by them in the same manner as their own revenues.

The poll tax is a flat tax of \$3, with an addition of \$2, except to World War veterans, until 1925; the addition of \$2 being used to meet bonds issued to pay a part of the soldiers' bonus given by the state. The poll tax is now assessed against both males and females.

(a) Base

The base is the invoice described above.

The property included and exempt, and polls: Such property real and personal, within the jurisdiction of the state, as is expressly enumerated as taxable in the statutes. All other property is exempt, as are also certain items in the enumerated classes, as shown below. The polls included are all males and females from 21 to 70 years of age, not specifically exempt.

"Real property" includes lands, tenements, and hereditaments, and all rights thereto and interest therein; buildings, mills, carding machines, factory buildings, and machinery, wharves, ferries, toll bridges, locks and canals, and aqueducts, any portion of the water of which is sold or rented for pay; lands, dams, canals, water power, buildings, structures, machinery, dynamos, apparatus, poles, wires, and fixtures of all kinds and descriptions, owned, operated, and employed by any private corporation or person not a municipal corporation in generating, producing, supplying, and distributing electric power or light; also the property of any railroad, railway, express, telephone, telegraph, sleeping, dining, parlor, and private car companies.

"Personal property," according to the law, includes stock in public funds, including all United States, state, county, city, or town stocks or bonds, and all other interest-bearing bonds not exempt from taxation by the laws of the United States; stock in corporations in the state, except where the property represented by the stock is taxable directly to the corporation; stock in corporations located outside of the state, owned by persons living in the state, except where either the stock or the property represented by it is taxed in the towns or states where the corporations are located (nevertheless, in practical operation, no corporate stock is taxed at all, except national bank stock); money on hand or at interest more than the owner pays interest for, including money deposited in any bank other than a savings bank, or loaned on any mortgage, pledge, obligation, note, or other security, whether on interest, or interest be paid or received in advance, but excepting money loaned at a rate of interest not exceeding 5 per cent. per annum, secured by a note and mortgage on real estate situate in the state; stock in trade, whether of merchants, shopkeepers, mechanics, or tradesmen, at the average value for the year; raw materials and manufactures of any manufactory, wood, timber, logs, and lumber, if exceeding \$50 in value; fishing vessels, steamboats, houseboats, or other vessels for the transportation of passengers or freight, and sea-going vessels; the net yearly income of ships and vessels engaged in the foreign carrying trade for at least 10 months of the year preceding the annual assessment, etc.

(b) Exemptions

(1) Public property; certain property for religious, educational, cemetery, charitable, benevolent, etc., purposes.

(2) All public stocks and bonds; stock in corporations not

for profit; money loaned to a town by a citizen thereof at a rate of interest not exceeding 5 per cent., by a vote of the town, etc.

(c) Assessment

The assessment of all polls and property, except that of railroads, railways, telegraph, telephone, express, dining, sleeping, parlor, and private car companies, which are assessed by the State Tax Commission, and except savings banks, trust companies, loan and trust companies, loan and banking companies, building and loan associations, and other similar companies, which report to the State Treasurer, is made by the selectmen and the assessors of the towns and cities.

The roll is known as the "invoice" of polls and property. It is made up as of April 1 in each year. Each taxpayer is required to furnish a sworn inventory of his property. The penalty for omitting the inventory, or for a false inventory, is dooming of four times as much as the property would be appraised at, if duly returned. The oath of the taxpayer is not required to state the value of his real estate, nor of his vehicles or live stock, but is required to state the value of all his other taxable property.

The appraisal is to be at its full and true value. A new invoice is made every year, and a new appraisal of all property, including real estate. But the state taxes are apportioned among the towns and cities only once in two years, the apportionment holding during the interim.

Mortgages are assessed as money at interest, and no deduction is allowed from the appraised value of the property mortgaged. In appraising the value of the shares of the capital stock of corporations, a just proportion of the assessed value of any property otherwise taxed is to be deducted.

The taxation of railroads (see page 98 of 1914 pamphlet compiled by State Tax Commission), of banks (see page 99), and of insurance companies (see page 106), are too complicated for brief statement.

All of the property and fixtures used by a person or corporation in producing and distributing electric light and power are assessed as real estate in the towns where it is located. All boats and launches, the aggregate value of which exceeds \$100 are taxed to the owner where the property is located on the 1st day of April.

(d) Rate

State, county, and town taxes are levied together by the selectmen of the town. State taxes levied in a lump sum are apportioned by the state Legislature to the several towns, on the basis of their valuations as equalized by the State Tax Commission, but the taxes are levied on the local assessment. There is thus no universal and distinct state rate. The apportionment of public taxes, according to the valuations of ratable estates in the several towns is made every two years. The Legislature specifies the amount and time of payment of the tax for each of two fiscal years.

The rate on railroad, telegraph, telephone, car, and express companies is fixed by the State Tax Commission. It is to be the average rate levied upon property throughout the state, ascertained by dividing the total amount of taxes, excluding poll taxes and property specially taxed, levied by the total appraised value of property entered in the invoice.

(e) Collection

In general, all taxes, state and local, except those on railroads, etc., are collected by the town collectors. The collector may distrain on goods and chattels, and, if necessary, take

the body. The lien for taxes on real estate attaches as of the 1st day of July after the assessment. Any town which neglects to choose officers for assessing and collecting taxes becomes liable to an extent for state and county taxes, which may be levied on the property of any inhabitant or owner of property therein, if no estate of such town be found whereon to levy the same. Extents may also issue against any officers concerned in taxation who fail in their duties. Taxes on railroad, telegraph, telephone, car, and express companies are paid to the State Treasurer and apportioned to the towns. Interest at 10 per cent. is charged on taxes against railroads not paid on or before the 15th of October. Interest at 10 per cent. on general property taxes does not commence to run until December.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the state, real or personal, and any interest therein, belonging to inhabitants of the state, and all real estate within the state, or any interest therein, belonging to persons who are not inhabitants of the state, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, bargain, sale, or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, absolutely or in trust, to or for the use of father, mother, husband, wife, lineal descendant, adopted child, lineal descendant of adopted child, wife or widow of son, or husband of daughter, is taxed at rates ranging from 1 per cent. on amount up to \$25,000 to 5 per cent. on amount over \$250,000.

\$10,000 is exempt to husband, wife, or minor child.

All others, at the rate of 5 per cent.

Property passing for educational, religious, cemetery, charitable, or public purposes within the state, entirely exempt.

All real property of nonresidents within state is subject to same rate of taxation as real property of residents.

All personal property within the jurisdiction of the state is subject to a tax of 2 per cent., except stock in a corporation organized in the state, but conducting all of its business outside of the state, having only statutory office within state.

(b) Official in charge of administration and collection

State Treasurer, Concord, N. H.

(c) When inheritance taxes are due—Discount and penalties

Due 15 months from death; 3 per cent. discount is allowed on all taxes paid in full within 6 months after death. If not paid when due, interest at rate of 10 per cent. is added from date tax was due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes as described above, and to organization and annual fees and taxes.

(b) Organization taxes

Payable to Secretary of State:

On capital not over \$10,000, \$10; over \$10,000, but not over \$50,000, \$25; over \$50,000, but not over \$250,000, \$100; over \$250,000, but not over \$500,000, \$150; each additional \$100,000 over \$1,000,000, \$10.

Shares without par value are deemed to have a par value of \$50 for the purpose of fixing the organization tax.

(c) Annual taxes

Every corporation shall pay annually to the State Treasurer, at the time of making its annual report, a fee equal to one-fourth the amount paid upon filing its original record of organization, plus one-fourth of additional payments for increases in its authorized capital stock, if any: Provided, that such annual fee shall not be less than \$5 nor more than \$100.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state.

(b) Entrance fees

There is no statutory provision for an initial license tax or fee, or filing and recording fees.

(c) Annual taxes

A filing fee of \$5 for the annual return to the Secretary of State, which must be made on or before March 1 is imposed.

(d) Taxes against owner of stock in foreign corporations

No tax is assessed against the owner of stock in foreign corporations.

11. Taxation of trusts and beneficiaries

All taxable property held in trust is taxed to the trustee—the real estate in the town in which it is situated, and the personal estate in the town in which the trustee resides, if in New Hampshire, otherwise in the town in which the person beneficially interested resides, if in New Hampshire. Section 2, Public Statutes. It is the duty of trustees to render an inventory under oath. *Bell v. Sawyer*, 59 N. H. 393. In case of several trustees, the trust funds are taxable pro rata to each in the towns in which they respectively reside. *McLellan v. Concord*, 78 N. H. 89, 97 Atl. 552.

NEW JERSEY

(Revised to May 15, 1922)

1. General features of tax system

The taxing system of New Jersey embraces: (1) A general property tax, used for local school purposes; (2) a tax on railroad property, apportioned among the counties for public schools, except one-half of 1 per cent. of valuation assessed, which is retained by the state; (3) tax on gross receipts of street railway, traction, gas, electric light, heat, and power corporations (in addition to franchise tax and in lieu of all taxes on personalty, except road and tunnel taxes); (4) franchise tax on public utilities; (5) taxes levied on capital stock of corporations, except railroad companies and public utility companies using streets, and except manufacturing and mining companies having 50 per cent. of their capital invested in manufacturing, etc., in New Jersey; (6) tax on shares of stock in national and state banks and trust companies; (7) state road tax on all real and personal property, including railroad property; (8) bridge and tunnel bond tax on all real and personal property, including railroad property; (9) soldiers' bonus bond tax on all real and personal property, including railroad property; (10) inheritance taxes. The tax system is under the general supervision of the State Board of Taxes and Assessment, except inheritance taxes, which are administered by the Comptroller of Treasury, Trenton.

2. Where pamphlet copies of tax laws, etc., may be secured

"Calendar of Tax Events with Tax Date Chart," also pamphlets containing session laws of various years "Affect-

ing Taxation," State Board of Taxes and Assessment, Trenton.

"Transfer Inheritance Tax" Law, Comptroller of the Treasury, Trenton.

"General Corporation Act," containing corporate franchise tax laws, etc., Department of State, Trenton.

3. State taxing officials

State Board of Taxes and Assessment, Trenton, New Jersey.

Inheritance taxes are under jurisdiction of Comptroller of the Treasury, Trenton, New Jersey.

4. Income tax

There is no income tax in New Jersey.

5. General property tax

General property taxes are levied for school purposes, for state road tax, for bridge and tunnel board tax, and for soldiers' bonus bond tax.

(a) Base

All property, real and personal, within the jurisdiction of the state, not expressly exempted by law, is subject to taxation. Real and personal property are not specifically defined for purposes of taxation. The general definitions given in the statutes are:

"*Real property*" includes all lands and all water power thereon; all buildings and trees; all mines, quarries, peat and marl beds; and all fisheries.

"*Personal property*" includes all goods and chattels, debts, and public and corporate stock, whether said personal estate be within or without the state.

(b) Exemptions

(1) Bonds and other securities of the United States, of New Jersey and of its political subdivisions; personal property out of the state and taxed where located.

(2) Property used for public, military (national guard), educational, religious, charitable, benevolent, hospital, public library, etc., purposes.

(3) Shares of stock in corporations, having *special contract* for exemption, and the shares of stock of any corporation of the state, the capital or property whereof is made taxable to and against said corporation; mortgages on property which is exempt from taxation; household furniture and effects, to a value not exceeding \$100 when located and used in the residence of the owner; shares of stock of banks, banking associations, and trust companies, the taxation of which is provided for by any other laws of the state; firemen, honorably discharged soldiers, etc., are exempt to extent of \$500 in value of property; the metal contents of ores owned by nonresidents and stopped in transit in New Jersey, for refining; offices and franchises and all property used for railroad and canal purposes, the taxation of which is provided for by any other law of the state.

(c) Assessment

All property, except certain classes of railroad and canal property assessed by the State Board of Assessors, is assessed annually by the local or district assessors in each "taxing district," which is defined as the township, village, town, city, or ward or district in the city, in which it is located, except intangible personal property, which takes the situs of its owner. The assessment refers to October 1st as the taxing date.

Real estate is to be assessed at the "full and fair value," or

"at such price as, in the judgment of the assessor, it would sell for at fair and bona fide sale by private contract." Personal property is to be assessed at its "true value," which term has been defined by the courts to be equivalent to fair market or selling value. The assessor may call on every inhabitant for a statement of his ratable real property. The penalty for refusal to render such statement or for rendering a false statement is an assessment "at the highest value he [the assessor] has reason to suppose it may be placed." Land and improvements are separately assessed. Personal property is to be ascertained by the assessor "by diligent inquiry and by the oath of persons to be assessed." No mortgage or debt secured by mortgage on real property which is taxed shall be listed for taxation, and no deduction from the assessed value shall be made on account of a mortgage. No mortgage on personal property or on both personal and real property, or the debts secured by such mortgage, shall be assessed for taxation, unless a deduction therefor shall have been claimed by the owner of such mortgaged property and allowed by the assessor. The taxpayer has the right to claim deduction, from the aggregate of his personal property, of all debts due persons residing in the state, but in making such claim for deduction he must list his creditors and state the amounts owing them.

Corporations, except as specifically provided otherwise, are treated as residents or inhabitants of the taxing districts where their chief office is located. Their real and personal property is assessed in the same manner as other property. With the exception of banks (national, state, and trust companies), the shares of stock of corporations are not taxable as such; the property which they represent being taxed to the corporations.

Shares of stock in national and in state banks are assessed against the stockholders. The bank pays the taxes and has a

lien on the stock and dividends to insure reimbursement. The real property of banks is assessed to the bank, and the amount thereof deducted before the value of the shares is determined.

(d) Rate

The governing body of every taxing district in each county in the state reports to the county board of taxation of such county the amount to be raised for state (if any), state school, county, school district, and local purposes, and may add 10 per cent. thereto for contingencies. In like manner the "board of chosen freeholders," in each county reports the amount to be raised for county purposes. The county board of taxation then computes the tax rates necessary in each district to raise the sum required, and on the basis of the assessed valuation as equalized.

(e) Collection

Taxes are collected by the collector of each taxing district. One half is payable on April 1, which, if not paid on or before June 1, becomes delinquent, the other half is payable on or before December 1, after which it is delinquent. Each municipality fixes a discount of not more than 6 per cent. for prepayment. The penalty for delinquency is 7 per cent., unless the governing body of the taxing district fixes a higher rate, but is not to exceed 9 per cent.

Taxes on personal property are collectible by distress and sale immediately after December 20, and, if no goods and chattels are found to seize, the delinquent may be imprisoned. Real estate taxes, if delinquent, become a lien on December 20, and warrant for the sale issues the following July.

The taxes on real estate may be collected from the tenant or other person in possession, who in turn may recover from the landlord. The taxes on unimproved or untenanted lands

may be collected by seizure and sale of timber, wood, herbage, or other vendibles.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real or personal of the value of \$500 or over or of any interest therein or income therefrom in trust or otherwise, to persons or corporations, except as hereinafter provided, in the following cases:

First. When the transfer is by will or by the intestate laws of this state from any person dying, seized or possessed of the property, while a resident of the state.

Second. When the transfer is by will or intestate laws, of real property within this state, or of goods, wares, and merchandise within this state, or of shares of stock of corporations of this state, or of national banking associations located in this state, and the decedent was a nonresident of the state at the time of his death.

Third. When the transfer is of property made by a resident, or is of real property within this state, or of goods, wares, and merchandise within this state, or of shares of stock of corporations of this state or of national banking associations located in this state, made by a nonresident, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect, in possession or enjoyment at or after such death.

Fourth. When any person or corporation comes into the possession or enjoyment of property, by a transfer from a resident or from a nonresident decedent, when such nonresident decedent's property consists of real property within this state, or of shares of stock of corporations of this state, or of na-

tional banking associations located in this state, of an estate in expectancy of any kind or character which is contingent or defeasible, transferred by an instrument taking effect after the passage of this act, or of any property transferred pursuant to a power of appointment contained in any instrument taking effect after the passage of this act.

All taxes imposed by this act shall be at the rate of 5 per centum upon the clear market value of such property, except as hereinafter provided, to be paid to the Treasurer of the State of New Jersey for the use of said state, and all administrators, executors, trustees, grantees, donees, or vendees, shall be personally liable for any and all such taxes until the same shall have been paid as hereinafter directed, for which an action of debt shall lie in the name of the state of New Jersey.

The tax imposed on property passing to husband, wife, child or children, or issue thereof, adopted child or children, or issue thereof, is at rates ranging from 1 per cent. on amount over \$5,000 to \$50,000 to 3 per cent. on amount over \$250,000. To father, mother, brother, sister, wife of son, widow of son, husband; to churches, hospitals, orphan asylums, public libraries, bible and tract societies, religious, benevolent, or charitable institutions or organizations, 5 per cent. on amount over exemption; all others 8 per cent. on amount over exemption. The exemption referred to in both cases is any amount less than \$500, if the value of the transfer is more than \$500, there is no exemption. Property passing to the state or any of its subdivisions for exclusively public purposes is entirely exempt.

(b) Official in charge of administration and collection

Comptroller of Treasury, Trenton, N. J.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. Discount of 5 per cent. is allowed, if paid within six months from date of death; if not paid within one year from death, interest at 10 per cent. per annum is added from expiration of the year, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

All corporations are taxed on their property within the state for local purposes, the same as individuals, and are subject to organization and annual franchise taxes for state purposes. Some are also taxed for local purposes on the basis of gross earnings. Its visible personal property is taxed where found; its other personal property in the taxing district where its principal office is located.

(b) Organization taxes

Fee to county clerk:

Recording charter, about \$6.

Fees to Secretary of State:

Twenty cents per \$1,000 of authorized capital, but not less than \$25. Recording, 10 cents per folio, about \$3.

(c) Annual franchise taxes

An annual franchise tax is imposed on capital stock issued and outstanding at the following rates:

Up to \$3,000,000, one-tenth of 1 per cent.; \$3,000,000 to \$5,000,000, one-twentieth of 1 per cent.; \$50 per \$1,000,000 in excess of \$5,000,000.

On shares without par value an annual franchise tax is paid at the following rates:

Up to and including 20,000 shares, 3 cents per share; over 20,000 shares, but not over 30,000 shares, 2 cents per share; over 30,000 shares, but not over 40,000 shares, 1 cent per share; over 40,000 shares, but not over 50,000 shares, 5 mills per share; in excess of 50,000 shares, at the rate of $2\frac{1}{2}$ mills per share: Provided, that the franchise tax does not apply to railway, canal, or banking corporations, or to savings banks, cemeteries, or religious corporations, or purely charitable or educational associations not conducted for profit, or manufacturing, mining, agricultural, or horticultural corporations, at least 50 per cent. of whose capital stock issued and outstanding is invested in mining, manufacturing, agricultural, or horticultural pursuits carried on within the state.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, to entrance taxes, and there is a reciprocal provision for annual taxes, which is not usually enforced.

(b) Entrance fees

Same fee as is charged a New Jersey corporation upon entering the home state of such foreign company, but in no case less than \$10. Recording papers in office of Secretary of State, 10 cents per folio. If annual report is filed separately, \$1.

(c) Annual fees and taxes

In practice no annual tax is now required of foreign corporations, but the following section is authority for a reciprocal tax:

"When, by the laws of any other state or nation, any other or greater taxes, fines, penalties, licenses, fees or other obliga-

tions or requirements are imposed upon corporations of this state, doing business in such other state or nation, or upon their agents therein, than the laws of this state impose upon their corporations or agents doing business in this state, so long as such laws continue in force in such foreign state or nation, the same taxes, fines, penalties, licenses, fees, obligations and requirements of whatever kind shall be imposed upon all corporations of such other state or nation doing business within this state and upon their agents here: Provided, that nothing herein shall be held to repeal any duty, condition or requirement now imposed by law upon such corporations of other states or nations transacting business in the state."

(d) Taxes against owner of stock in foreign corporations

Stocks of foreign corporations owned by citizens of New Jersey are exempt from taxation, when taxes have been actually assessed and paid on the corporation's property in its own state within 12 months. *Trenton v. Standard Fire Insurance Co.*, 77 N. J. Law, 757, 73 Atl. 606.

11. Taxation of trusts and beneficiaries

Personal property in possession of a trustee, etc., is assessed in his name as such, separate from his individual assessment, or in the name of any one of several joint trustees, etc.

NEW MEXICO

(Revised to May 27, 1922)

1. General features of tax system

New Mexico draws its revenues mainly from the general property tax and from income from the sale and lease of state lands granted to the state by the federal government prior to and simultaneous with the coming of New Mexico into the Union. There is an inheritance tax. Such licenses as are provided for by statute go direct to the support of schools and the general county government in the county in which collected. In changing from a territorial to a state form of government (January 6, 1912), provision was made in section 4, article 12, of the new Constitution, that all laws of the territory in force at the time of admission into the Union as a state, not inconsistent with the Constitution, should remain in force as the laws of the state, until they expire by their own limitation, or are altered or repealed.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the General Corporation Laws of the State of New Mexico may be obtained by addressing the Corporation Commission, Santa Fé, New Mexico.

3. State taxing officials

State Tax Commission, Santa Fé, New Mexico.

4. Income tax

The Income Tax Law passed by the 1919 session of the Legislature (chapter 123, Laws 1919) was not enforced because

of suits filed to test its constitutionality, and further because of doubt in the minds of the taxing officials of its validity. It was repealed by chapter 17, Laws 1921, and no income tax law was enacted in lieu thereof.

5. General property tax

(a) Base

All property in the state, not exempt by law, is subject to taxation.

"Real property" includes all lands within the state to which title or right to title has been acquired; all mines, minerals, and quarries; and all rights and privileges appertaining to land and improvements, which include all buildings, structures, fixtures, and fences affixed to land, whether title to the land has been acquired or not.

"Personal property" includes everything subject to ownership, not included within the term "real estate."

(b) Exemptions

Public property, bonds of the state, county, municipality, or district (the provision exempting mines and mining claims bearing gold, silver, and other precious metals, but not the net product and surface improvements, for a period of 10 years from the date of the location was inconsistent with section 3, article 8 of the Constitution prescribing taxation exemptions).

(c) Assessment

Every person is required to furnish a sworn list of the items of his property and the value of his personal property as of January 1 of each year, but the assessed value of both real and personal property is fixed at the value of the property as determined by the assessor. For a false list or failure to render a list the penalty is an increase of 25 per cent. in the assessed value.

Lands are to be designated on the assessment lists according to their character, as agricultural, grazing, coal, saline, mineral, timber, and town, city, or village lots.

Bona fide debts may be deducted from credits.

Corporations are assessed on their property where the same is situated; but, when the entire capital or property is assessed, the stockholders are not taxed individually on their stock. Bank stock in national or state banks is assessed where bank is located, by the State Tax Commission, on the basis of statements by the corporate officers, and the taxes are paid by the corporation. Building and savings and loan associations are assessed with the amount shown to have been paid into the association, up to the 1st day of January, upon outstanding shares of stock, less the amount shown by the statements to have been loaned to shareholders upon mortgage security listed for taxation, and upon shares of stock of said association, and neither the association nor the shareholders therein shall be liable to other taxation upon shares of stock. Mortgages on real estate held by building and savings and loan associations are exempt, if the real estate is listed for taxation by the owners.

(d) Rate

The rate for state revenue, except for the support of educational, penal, and charitable institutions, payment of the state debt and interest thereon is not to exceed 4 mills.

A tax of one-half mill, levied to create a fund to be known as the "New Mexican mounted police fund," has been abolished by reason of the repeal of the law authorizing the mounted police. Section 1, chapter 12, Laws 1921.

The sheep sanitary board may levy a special tax upon the assessed value of all sheep in the state.

(e) Collection

Taxes are collected by the county treasurer, who is *ex officio* tax collector. The collector is required to give notice to all persons of the amount of taxes due and to call and pay such taxes. Payment may be made in two installments, the first between the time of the delivery of the tax roll and December 31st, and the second before June 1st of the following year. On the 31st of December in each year half of the unpaid taxes become delinquent and on the 1st of June of the following year the remaining half, from which dates 1 per cent. per month is added. Delinquent taxes are to be collected by distraint and sale of personal property. Real estate is subject to sale on July 1. Taxes are a lien from the date of the levy thereof.

7. Inheritance taxes

(a) General scope and rates

All estates, which shall pass by will or inheritance or by other statutes to the parent or parents, husband, wife, lineal descendants, or legally adopted child, at the rate of 1 per cent. on amount over \$10,000. Lineal descendants of any legally adopted child, wife or widow of son, husband of daughter, whether such son or daughter was born in wedlock or adopted, brother, or sister, at the rate of 5 per cent. on amount over \$10,000. Other kindred, strangers, corporations, voluntary associations, or societies, at the rate of 5 per cent. on amount over \$500.

Gifts of paintings, pictures, books, engravings, etc., articles of beauty or interest for free exhibition within state, entirely exempt from tax.

All property of nonresidents within the state is subject to the same rate of taxation as the property of residents. Stock in domestic corporations owned by nonresident decedents is

subject to tax, if the state of the domicile of the nonresident decedent imposes an inheritance tax upon the stock of domestic corporations of that state owned by decedent residents of New Mexico. That proportion of exemption allowed to residents which the property within the state bears to property wherever situated is allowed to nonresidents.

(b) Official in charge of administration and collection

State Tax Commission, Santa Fé, N. M.

(c) When inheritance taxes are due—Discount and penalties

Due within 12 months of qualification by executor, administrator, etc. No discount; 10 per cent. interest is added from time tax is due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and annual franchise taxes noted below.

(b) Organization taxes

Fees to State Corporation Commission:

For incorporation or renewal of corporate existence, where total authorized capital stock is \$250,000 or less, \$25. If total authorized capital stock exceeds \$250,000, for each \$1,000, 10 cents.

(c) Annual franchise taxes

Tax is at the rate of \$10 for each \$100,000, or fraction thereof, of its authorized capital stock, as determined from the annual report by the State Tax Commission.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual franchise taxes.

(b) Entrance fees

Fees to State Corporation Commission:

Filing certified copy of charter, 10 cents on each \$1,000 of authorized capital, but not less than \$25. If total authorized capital stock exceeds \$250,000, and does not \$5,000,000, 10 cents for each \$1,000, but in no case shall such fee or tax exceed the sum of \$250. Over \$5,000,000 and not to exceed \$10,000,000, \$500. Over \$10,000,000 and not to exceed \$20,000,000, \$750. Over \$20,000,000 and not to exceed \$30,000,000, \$1,000. Over \$30,000,000 and not to exceed \$75,000,000, \$1,500. Over \$75,000,000 and not to exceed \$100,000,000, \$2,000. Over \$100,000,000, \$3,000: Provided, however, that foreign corporations without capital stock or with capital stock having no fixed par value shall pay \$50 only for such certificate of authority to do business in this state. Chapter 29, Laws 1921. Filing appointment of agent, \$5. Filing proof of publication, \$5.

Fee to county clerk:

Filing and recording charter and designation of agent, \$5. Advertising charter, two insertions. The legal rate is 30 cents per 100 ems for the first insertion and 20 cents per 100 ems for the second insertion. Laws 1912, c. 49, § 2.

(c) Annual franchise taxes

\$10 for each \$100,000 or fraction thereof of authorized capital stock represented by property and business in the state, as

determined from the annual report by the State Tax Commission.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in foreign corporations are not taxed to holders in New Mexico.

11. Taxation of trusts and beneficiaries

The law requires that persons or agents who have in their control property of others must return the same for taxation. If the property is returned in the name of the trustee it is taxed to him, and if returned in the name of the beneficiary then the assessment is against that person. There is no law requiring the tax to be assessed against one or the other, but the law against double taxation prevents the assessment of the property against both the trustee and the beneficiary.

NEW YORK

(Revised to October 18, 1922)

1. General features of tax system

The tax system of New York is summarized as follows in the Report of the Special Committee on Taxation and Retrenchment, submitted March 1, 1922, pp. 20-21:

"(1) A tax on personal income, part of which is at present shared with the localities;

"(2) A tax on real estate, in rem, without regard to ownership, whether it be by individuals or by business organizations, which serves to supply the bulk of local revenues, and

"(3) A series of taxes on businesses, consisting of a tax on corporate incomes of business corporations generally, shared with the localities, a tax on certain types of business income of nonresident individuals, shared with the localities, a series of special taxes on public utilities, banks, insurance companies, etc., some of which (such as the special portion of the public utility tax and the tax on shares of state and national banks) are now an important part of the local assessment base.

"There are other important taxes, such as an inheritance tax, the stock transfer tax, and the tax on motor vehicles, but the main structure is that outlined above."

Collection by state officials is made of: (a) Corporation taxes; (b) stock transfer taxes; (c) personal income taxes; (d) motor vehicle taxes; and (e) inheritance taxes.

Collection by county officials is made of: (a) Inheritance taxes; (b) mortgage taxes; (c) bank stock taxes; (d) motor-vehicle tax; and (e) general property taxes.

Collection by town, city, village, and school district officials is made of general property taxes.

2. Where pamphlet copies of tax laws, etc., may be secured

Copies of the separate laws may often be secured from the department charged with collection of the tax in question. See No. 3 below. The Equitable Trust Company, 37 Wall Street, New York City, issues pamphlet copies of the "New York State Income Tax—Individuals," "New York State Transfer Tax Law" (the inheritance tax), "New York State Franchise Tax on Business Corporations," and a "Taxpayer's Guide," containing dates for tax returns, dates for payment of taxes, and deductions allowed for income taxes, relating to federal, New York state, and New York City taxes. The Corporation Trust Company, 37 Wall Street, issues "New York Income Tax Laws," as reported in its New York Income Tax Service. The Guaranty Trust Company of New York, 140 Broadway, issues a pamphlet called "Tax on Personal Incomes, State of New York." The Bankers Trust Company issues "State of New York Personal Income Tax Law and Corporation Franchise Tax Law." The Irving National Bank, Woolworth Building, issues "New York State Income Tax Law on Practical Questions and Answers." The Columbia Trust Company, 60 Broadway, issues a "Calendar for Taxpayers."

3. State taxing officials

State Tax Commission, Albany, New York. Branches elsewhere in the state are:

Manhattan: Corporation Tax Bureau and Bureau of Stamps and Licenses, 233 Broadway; Income Tax Bureau, 120 Broadway; Motor Vehicle Bureau, 127 West Sixty-Fifth Street.

Brooklyn: Income Tax and Motor Vehicle Bureaus, 317 Washington Street.

Bronx: Transfer Tax Appraisers and Attorney, 570 East 161st Street.

For income tax only:

Buffalo: Income Tax Bureau, 11-13 Swan Street.

Rochester: 106-108 East Main Street.

Syracuse: 423½ Salina Street.

Utica: 110 Genesee Street.

4. Income tax

(a) In general

Article 16 of the Tax Law imposes an annual personal income tax on natural persons, including residents and nonresidents, and also on both resident and nonresident estates and trusts. The law in its original form closely followed the provisions and even the language of the federal income tax law and regulations, and amendments have been enacted to keep the two acts in a general way in harmony. Important differences between the two laws are explained below.

(b) Taxable persons

Residents.—Applies only to natural persons and includes “any person domiciled in the state of New York, and any other person who maintains a permanent place of abode within the state, and spends in the aggregate more than seven months of the taxable year within the state.” Section 350 (7), as amended by chapter 425, Laws of 1922.

Nonresidents.—Every individual who is not a resident of this state, but who derives income from any business, trade, profession, or occupation carried on, or from tangible property owned, within the state, is subject to this law. Income

in the form of annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends (except to the extent to which the same shall be a part of the income from any trade or business carried on within the state), is not taxable to nonresidents. Section 351 and section 359 (3).

The income of trusts and estates may be taxable to the estate or trust as an entity or to the beneficiary, as hereinafter explained. Section 365.

Partnerships are not taxable as such, but the partners are liable for income tax in their individual capacity on their distributive shares of the partnership earnings. "Personal service corporations," as defined in the federal Revenue Act of 1918, are not taxable under this law, but may be subject to the New York franchise tax on business corporations. Section 364.

(c) Taxable income

The tax is applicable to income received (the term "received" means "received or accrued," according to the method of accounting used by the taxpayer—section 350 [6]) during the calendar year 1919 (or during any fiscal year ending in 1919), and during succeeding years. But neither income received or accrued nor appreciation of property prior to January 1, 1919, is taxable. Section 351.

(d) Gross income

I. In the case of a *resident*, gross income is the same as gross income computed under the federal act, with the following exceptions

1. It includes:

(a) Interest on obligations of a state, territory (Alaska and Hawaii), or any political subdivision thereof, except obligations of the state of New York or a political subdivision thereof. Section 359 (2-d).

(b) Salaries, wages, and other compensation received from the state of New York or political subdivisions thereof by officials or employees. Section 359 (2-f).

2. It *does not include*:

(a) Interest on obligations of the United States or its possessions, including War Finance Corporation bonds, *regardless of the amount held*. Section 359(2-d).

(b) Interest on investments, upon which the annual stamp tax of \$2 per \$1,000, under the New York Investment Tax Law, was paid after June 1, 1917, and prior to May 15, 1919, during the period of years for which such tax was paid. Section 359 (2-d).

(c) Income received by an *officer* of a religious denomination or of a corporation or association devoted to religious, charitable, scientific, educational, etc., purposes, or for the enforcement of laws relating to children or animals: Provided such income is used exclusively for carrying out such purposes. Section 359 (2-g).

(d) Salaries, wages, and other compensation received from the United States by officials or employees thereof, including such compensation received by persons in the military or naval forces, *regardless of amount or when received*. Section 359 (2-f).

(e) Dividends from a personal service corporation which has paid a franchise tax. Section 359 (2-h).

II. In the case of a *nonresident*, gross income includes only income derived from sources within this state, and is computed on the same basis as in the case of a resident, except that annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, and dividends *are exempt*, unless forming a part of income from a trade or business carried on within this state. Section 359 (3).

The State Tax Commission has ruled that profits on sales of securities should not be included in the gross income of non-resident taxpayers, unless forming a part of income from a trade or business carried on within this state.

(e) Deductions—Net income

I. In the case of a *resident*, the same deductions from gross income are allowed as under the federal act, with the following exceptions:

1. The taxpayer may deduct *all* interest paid or accrued during the taxable year on indebtedness. (A different rule applies for the year 1919.) Section 360 (2).

2. No provision is made for "war amortization" or "inventory losses."

3. Income taxes, *by whatever authority levied*, are not deductible. Section 360 (3).

4. Cash dividends are fully taxable.

II. In the case of a *nonresident*, the same deductions are allowed as in the case of a resident, but only to the extent that they are connected with income arising from sources within this state. Section 360 (11).

Losses not connected with the trade or business are deductible only with regard to tangible personal property or real estate having an actual situs within the state. Section 360 (5), (6). Losses on speculative sales of securities are not deductible.

Contributions to corporations or associations organized under the laws of the state of New York *only* or to the vocational rehabilitation fund are deductible. The State Tax Commission has ruled that contributions made to certain organizations of national scope, such as the Red Cross, are deductible, when made through a New York agency. Section 360 (10).

(f) Exemptions

The following exemptions are allowed both resident and nonresident taxpayers:

1. \$1,000 in case of a single person and \$2,000 in the case of a married person (living with husband or wife) or the head of a family. When married persons make separate returns, the \$2,000 must be *equally* divided between them. Section 362 (1).

2. \$200 for each dependent (other than husband or wife) under eighteen years of age, or incapable of self-support because mentally or physically defective, and receiving his chief support from the taxpayer. Section 362 (2).

(g) Rates of tax

One per cent. of the amount of net income in excess of the personal exemptions and not in excess of \$10,000;

Two per cent. of the amount in excess of \$10,000, and not in excess of \$50,000; and

Three per cent. of the amount in excess of \$50,000. Section 351.

(h) Credit for taxes

A *nonresident* who has become liable to income tax to the state or country where he resides upon income derived from sources within this state is entitled to deduct from the amount of tax computed under this law that portion of the tax payable to the state or country where he resides which his income subject to taxation in this state bears to the income upon which the tax so payable to another state or country was imposed: Provided, that such credit will be allowed only if the law of such state or country grants a substantially similar credit to residents of this state subject to income tax under such laws, or imposes a tax upon the personal incomes of residents of

such state or country derived from sources within this state and exempts from taxation the personal incomes of residents of this state. Section 363.

No credit is allowed against the amount of the tax on any income subject to tax under this law and exempt from tax under the law of such other state or country.

The amount withheld at the source should be deducted from the amount of tax computed on the taxpayer's return. Section 366 (4).

(i) Returns

For taxation.—Every individual having for the taxable year a net income of \$1,000 or more, if single, or, if married and not living with husband or wife, and every husband and wife living together and having an aggregate net income of \$2,000 or more, shall on or before April 15th in each year (or on or before the 15th day of the fourth month following the close of the taxpayer's fiscal year) file a return of income in the office of the State Tax Commission. Husband and wife living together may make separate returns but must divide the personal exemption of \$2,000 equally. Exemptions for dependents should be claimed by the taxpayer from whom the dependent derives his chief support.

If a taxpayer is unable to make his own return, it must be made by a duly authorized agent, or by the guardian or other person charged with the care of the person or property of such taxpayer.

The State Tax Commission may grant a reasonable extension of time for filing returns, but no extension will be granted for more than 6 months, except in the case of taxpayers who are abroad. Section 367, 371.

The State Tax Commission is authorized to relieve nonresi-

dents from the duty of filing returns, when the credit for taxes is sufficient to offset all tax assessable under this law. Section 366 (1).

Of information.—Every withholding agent, making payment to a taxpayer of interest (except coupons payable to bearer), rent, salary, wages, compensation, or other fixed or determinable income aggregating \$1,000 or more in any taxable year, shall render a return on or before April 15th of the year next following in such form as may be required by the State Tax Commission. They also have to deduct, withhold and pay taxes due from their nonresident employees. Section 366 (2), (3).

(j) Payment of tax

The total amount of the tax must be paid at the time of filing the return. If the time for filing is extended, interest will be collected at the rate of 6 per cent. per annum from the due date until the time of payment. Section 377 (1).

(k) Payment at source

Every withholding agent, paying salaries, wages, commissions, gratuities, and other fixed and determinable annual or periodical *compensation*, in whatever form, to any individual for *personal services*, shall deduct and withhold from the amount paid 1 per cent. of the first \$10,000, 2 per cent. of the next \$40,000, and 3 per cent. of the excess over \$50,000, by which the amount of such compensation paid during the calendar year exceeds the amount of the taxpayer's personal exemptions as shown by a certificate (in form prescribed by the State Tax Commission) filed with the withholding agent, or \$1,000, if such certificate is not filed. No withholding is required if the certificate shows the taxpayer to be a resident of New York. Section 366 (1).

The State Tax Commission is authorized to prescribe a form of certificate to be filed with withholding agents, removing the necessity of withholding against nonresidents entitled to credit for taxes sufficient to offset all tax assessable under this law. Section 366 (1).

Income upon which tax has been withheld must be included in the return of the recipient of such income, but the amount withheld may be deducted from the amount of tax computed in such return. Section 366 (4).

On or before the 15th day of April in every year the withholding agent must file a return of the amount withheld during the preceding calendar year and pay the same to the State Tax Commission. Section 366 (3). (Law says March, but regulations say April.)

(1) Estates and trusts

The tax on income of individuals applies also to the income of estates and trusts, including:

Item 1. Income received by estates of deceased persons during administration and not distributed to beneficiaries as stated in item 5 below. Section 365 (1-a).

Item 2. Income accumulated in trust for the benefit of unascertained persons or persons with contingent interests. Section 365 (1-b).

Item 3. Income held for future distribution. Section 365 (1-c).

Item 4. Income distributed or to be distributed to beneficiaries periodically, whether or not at regular intervals, and income collected by a guardian of an infant, to be held or distributed as the court may direct. Section 365 (1-d).

Item 5. Income of an estate during the period of administration or settlement, properly paid or credited to a beneficiary during the taxable year. Section 365 (1-e).

Net income of an estate or trust is computed on the same basis as in the case of an individual taxpayer, except that income received by an estate or trust, which pursuant to the terms of the will or deed of trust is held for or paid out to corporations organized for religious, charitable, scientific, or educational, etc., purposes, or to the United States, or any political subdivision thereof, may be deducted. Section 365 (2), as amended by chapter 426, Laws 1922.

In cases under items 1, 2, or 3, the estate or trust is treated as an entity, and the fiduciary pays the tax and is entitled to an exemption of \$1,000. Section 365.

In cases under items 4 and 5, if the distribution of income is in the discretion of the fiduciary, either as to the beneficiaries to whom payable or as to the amounts to which any beneficiary is entitled, the tax is levied against the trust treated as an entity, the same as in the above paragraph; but, in all other cases under items 4 and 5, the tax is not paid by the fiduciary, but each beneficiary must include his distributive share, whether distributed or not, of the trust for the taxable year, in his own income tax return.

A trust created by an employer as a part of a stock bonus or profit-sharing plan is not taxable as an entity, but any amount actually distributed or made available is taxable to the distributee in the year in which it is distributed or made available to him to the extent that it exceeds the amounts paid in by him.

Income of a nonresident beneficiary is taxable only to the extent that it is derived from sources within the state, as provided in section 359 (3) of the law. Section 365 (4).

The residence of the decedent at time of death, and not that of fiduciary, determines whether the estate or trust is a resident or nonresident. Section 365.

The law does not clearly indicate all cases in which tax returns or information returns, or both, must be filed. The State Tax Commission's revised regulations should be examined by fiduciaries in preparing returns.

(m) Partnerships

Partnerships, as such, are not subject to taxation under this law, but each partner is required to include in his individual return his share of the net taxable income, whether or not actually distributed. Section 364.

However, partnerships are required to file an information return prepared upon the same basis as the return of an individual except that gifts or contributions are not allowed as a deduction in computing net income of the partnership. But each partner may deduct his proportionate share of such contributions in his own return. Section 368.

"Personal service corporations," as defined in the federal Revenue Act of 1918 are not treated as partnerships under this law, but are taxable as corporations.

(n) Exemption of certain property from personal property tax

Money on hand or on deposit, with or without interest, bonds, notes, and choses in action, and shares of stock in corporations (other than banks and banking associations), owned by any individual or constituting a part of a trust or estate subject to income tax under this law, shall not be included in the assessment rolls for the purpose of the Personal Property Tax after July 31, 1919. Section 352.

(o) Ascertainment of gain or loss

The basis of gain or loss with respect to sale of property acquired on or after January 1, 1919, is the cost or inventory

value. In case of property acquired prior to January 1, 1919, the law provides as follows:

(a) No profit shall be deemed to have been derived if either the cost or the fair market price or value on January 1, 1919, exceeds the value realized.

(b) No loss shall be deemed to have been sustained if either the cost or the fair market price or value on January 1, 1919,

(c) Where both the cost and the fair market price or value on January 1, 1919, are less than the value realized, the basis for computing profit shall be the cost or the fair market price or value on January 1, 1919, whichever is higher.

(d) Where both the cost and the fair market price or value on January 1, 1919, are in excess of the value realized, the basis for computing loss shall be the cost or the fair market price or value on January 1, 1919, whichever is lower. Section 353.

5. General property tax

This tax is used primarily for county and local purposes. It is, however, an important source of state revenue, and therefore included and described here.

(a) Base

All real property within the state, and all personal property situated or owned within the state, is taxable, unless exempt by law.

"Real property" includes land and all buildings and structures affixed thereto; wharves and piers, and the rights connected therewith; bridges, telegraph lines, wires, poles, and appurtenances; all supports and inclosures for electrical conductors; all surface, underground, or elevated railroads; the value of all franchises, rights, or permission to construct, maintain, or operate the same; all railroad structures; branch-

es, etc., on public or private roads or grounds; mains, pipes, or tanks for conducting steam, heat, water, oil, electricity, or any property or substance including the value of all franchises, rights, or authority or permission to construct, maintain, or operate the same in, under, above, upon, or through any streets; all trees and underwood growing upon land, and all mines, minerals, quarries, and fossils in and under the same. A franchise, right, authority, or permission specified in this subdivision shall for the purpose of taxation be known as a "special franchise." A special franchise shall be deemed to include the value of the tangible property of a person, copartnership, association, or corporation situated in, upon, under, or above any street, highway, public place, or public waters in connection with the special franchise. The tangible property so included shall be taxed as part of the special franchise.

The term "special franchise" shall not be deemed to include the crossing of a street, highway, or public place outside the limits of a city or incorporated village, where such crossing is less than 250 feet in length, unless such crossing be the continuance of an occupancy of another street, highway, or public place. This subdivision does not apply to an elevated railroad.

Personal property—All *intangible* personal property is exempt from taxation under the provisions of section 4-a of the Tax Law. All *tangible* personal property of individuals and partnerships, including stocks of goods in stores, merchandise generally, office furniture, horses, cattle and other livestock, farming implements, machinery, household goods in excess of \$1,250, et cetera, remains subject to assessment and taxation. Public service corporations remain taxable upon their "capital stock" under section 12 of the Tax Law, except for state purposes, but intangible personal property of such corporations

may not be included as a part of the assessment. Only the tangible personal property of individual bankers is taxable. Rents reserved are intangible personal property and nontaxable. The personal property of business corporations taxable under article 9-a of the Tax Law, both tangible and intangible, is exempt from taxation for all purposes. What constitutes personal property of a business corporation is set forth in section 219-l of the Tax Law.

(b) Exemptions

The classes of property now exempt from all taxation are as follows:

1. Property of the United States, state (other than forest and wild lands), and municipal corporations (except property outside of municipal limits). Tax Law, § 4, subds. 1, 2, 3.

2. Indian reservation. Section 4, subd. 4.

3. All property exempt by law from execution, other than an exempt homestead (including real property purchased with pension money to the amount of \$5,000). Section 4, subd. 5.

4. Forest lands planted and registered. Sections 16, 17; Conservation Law, § 57.

5. Real and personal property of organizations for moral and mental improvement, religious, charitable, hospital, educational, fraternal benefit, and cemetery purposes, when necessary for the purpose and not operated for a profit. Tax Law, § 4, subd. 7.

6. Real estate of religious corporations used by officiating clergymen up to \$2,000. Section 4, subd. 9.

7. Property of priest or minister (and widow) up to \$1,500. Section 4, subd. 11.

8. Property of agricultural societies used for exhibition purposes. Section 4, subd. 10.

9. Real property of incorporated volunteer firemen up to \$15,000. Section 4, subd. 8.

10. Personal property in excess of \$100,000 of mutual life insurance corporations incorporated in this state before 1849. Section 4.

11. Real estate from which no income is derived and personalty of medical societies, not to exceed \$150,000 in counties of Kings and New York and \$50,000 elsewhere, and pharmaceutical societies, not to exceed \$100,000 in Kings and New York and \$50,000 elsewhere. Section 4, subds. 18, 19.

12. Household furniture and personal effects to value of \$1,000. Section 4, subd. 17.

13. Vessels registered in New York and owned by New York corporations or American citizens, until 1923. Section 4, subd. 12.

14. Villages may exempt property of volunteer firemen up to \$500 and all real and personal property of such companies. Village Law, § 132.

15. Local financial officials may exempt property of Academy of Music from local taxes. Section 4, subd. 20.

16. New buildings for dwellings completed since April 1, 1920, or started before April 1, 1923, may be exempted locally until January 1, 1932. Section 4-b.

Those classes of property exempted from the property tax, to be taxed in other ways, are:

1. All intangibles. Section 4-a.

2. Motor vehicles not in the hands of dealers. Highway Law, §§ 282-287.

3. All tangible and intangible personalty of corporations paying a franchise tax on net income, except as provided in section 219-j.

4. All personalty of trust and investment companies exempt from local taxation. Section 205.

5. Personal property of banks. Section 24-c.

6. Tangible personalty of corporations taxed under capital stock tax, exempt from state (not local) tax. Section 205.

(c) Assessment

There is in general but one assessment roll for state, county, and town purposes. All incorporated villages have their own roll for village purposes. This is made up in the first instance by the local assessors.

The assessment is generally made between the 1st of January and the 1st of July. The assessment of banks is made on June 1st on the basis of reports which show their condition on May 1st.

Corporations are required to render reports in detail on or before June 1.

Property is to be assessed at its full value. What this value is has not been defined by statute, but the courts have held it to be the amount of money the property would sell for between a willing seller and a willing buyer.

Debts owing may be deducted from the full value of the personal property owned.

Real estate is assessed in the tax district in which it is situated, and personal property, with few exceptions, at the place of residence of the owners. One exception is the personal property of nonresidents having an actual situs in the state is assessed and taxed where situated, unless exempt by law.

State and national banks pay a tax of 1 per cent. on the capital surplus, and undivided profits, without deduction for debt or for funds invested in real property.

The value of "special franchises" subject to assessment in

cities, towns, and villages is annually fixed and determined, and afterwards equalized with the assessment of other real property in the same locality by the State Tax Commission. This assessment is the basis for state, county, and local taxation for the ensuing year.

(d) Rate

The amount of state taxes to be raised is apportioned among the counties by the Comptroller on the basis of the assessment as equalized by the State Board of Equalization. The rate is expressed in mills on the dollar. The amount required from each county, as determined by state equalization, is levied, together with the local taxes, by the supervisors upon the assessments as equalized by them.

(e) Collection

State and all other taxes on individuals and banks are collected by the local tax collectors. Those on individuals are a lien on the real and personal property of the taxpayer, and those on bank stocks on the dividends and shares.

6. Tax on mortgages

A tax of 50 cents for each \$100 and each remaining major fraction thereof of principal debt secured by mortgage on real property in New York is imposed as a condition precedent to recording the mortgage.

7. Inheritance tax

(a) General scope and rates

A tax is imposed by section 220 of the Tax Law, as amended by chapters 430, 432, and 433, Laws 1922, upon the transfer of any property, real or personal, or of any interest therein or

income therefrom, in trust or otherwise, to persons or corporations in the following cases, subject to exemptions and limitations hereinafter prescribed:

1. When the transfer is by will or by the intestate laws of this state, from any person dying seized or possessed thereof while a resident of the state.

2. In the case of a nonresident decedent, when the transfer is by will or intestate law, of any of the following items:

(a) Real property within this state, or goods, wares, and merchandise within this state.

(b) Shares of stock or certificates of interest of corporations organized under the laws of this state, or of national banking associations located in this state, or of joint-stock companies or associations organized under the laws of this state, and including all dividends and rights to subscribe to the stock of such corporations, joint-stock companies, or associations or banks.

(c) Property evidenced by or consisting of shares of stock of a foreign corporation, joint-stock company, or association, or bonds, notes, mortgages, or other evidences of interest in any corporation, joint-stock company, or association, wherever incorporated or organized, where the property represented by such shares of stock, bonds, notes, mortgages, or other evidences of interest consists of real property which is located wholly, or partly, within this state, to the extent to which the value of the said items, respectively, is enhanced, or is represented, or is secured, by real estate in the state of New York owned by such corporation, joint-stock company, or association. There shall be excepted from the classification of this subdivision all of such items, where such corporation, joint-stock company, or association is or is in the nature of a moneyed corporation, a railroad or transportation corpora-

tion, or a public service or manufacturing corporation, as defined or classified by the laws of this state.

(d) The interest of such decedent in any partnership business conducted, wholly or partly, within the state of New York, to the extent of the interest of the decedent in the partnership property within this state, and the good will of such business within this state.

(e) Capital invested in business within this state.

Nothing in this section shall be taken to include deposits in banks or trust companies, or with persons or corporations acting as bankers, or to permit of a transfer tax by reason of keeping securities, other than those taxable under this article, within this state.

3. All property taxable under this section, not specifically bequeathed or devised, including transfers under a residuary clause in a will, shall be deemed to be transferred proportionately among all the general legatees and devisees in accordance with their several interests in the estate, and in case of intestacy according to the proportions stated by the statute of distributions applicable thereto.

4. When the transfer is of property made by a resident, or is of property of a nonresident included within any of the classes named in subdivision 2, and is made by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to or conferred upon the grantor, vendor, or donor, either solely or in conjunction with any person or persons, to alter, or to amend, or to revoke any transfer, or any portion there-

of, as to the portion remaining at the time of the death of the grantor, vendor, or donor, thus subject to alteration, amendment, or revocation. If any one of the foregoing transfers is made for a valuable consideration, the portion of the transfer for which the grantor or vendor receives equivalent monetary value is not taxable, but the remaining portion thereof is taxable.

5. When any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof by any such transfer, whether made before or after the passage of this chapter.

6. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of this chapter, such appointment, when made, shall be deemed a transfer taxable under the provisions of this chapter, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will, and, if the donee of the power is a nonresident, all of the property and the proceeds of the property which was subject to taxation under this section at the time of the death of the donor shall be deemed to be included in the transfer.

7. Whenever property is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons, the right of the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer taxable under the provisions of this chapter, in the same man-

ner as though the whole property to which such transfer relates belonged absolutely to the deceased tenant by the entirety, joint tenant, or joint depositor, and had been bequeathed to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant, or joint depositor by will.

8. The tax imposed hereby shall be upon the clear market value of such property at the rates hereinafter prescribed.

(a) Property or any beneficial interest therein passing to father, mother, husband, wife, child, or adopted child, at rates of taxation ranging from 1 per cent. on amount over \$5,000 to \$25,000 to 4 per cent. on amount over \$5,000 over \$200,000.

(b) Lineal descendants born in lawful wedlock, brother, sister, wife or widow of son, husband of daughter, or mutually acknowledged child, at rates of taxation ranging from 2 per cent. on amount to \$25,000 to 5 per cent. on amount over \$200,000, except in case of lineal descendants born in lawful wedlock, where the rate ranges from 1 to 4 per cent. on the above amounts.

(c) Property passing to corporations organized for religious, educational, library, charitable, missionary, benevolent, hospital, or infirmary purposes, entirely exempt.

(d) Personal property, other than money or securities, is exempt to corporations organized exclusively for moral or mental improvement of men or women, or scientific, literary, patriotic, cemetery, or historical purposes. Property not exempt is taxable at same rates as those applicable to "all others" below.

(e) All others, at rates of taxation ranging from 5 per cent. on amount up to \$25,000 to 8 per cent. on amount over \$200,000.

\$500 is exempt to the beneficiaries in classes (b) and (c); but, if the amount is in excess of \$500, there is no exemption.

Nonresidents.—Property within state, subject to tax at above rates, is limited to the following: (a) Real estate, and goods, wares and merchandise; (b) shares of stock or certificates of interest of New York corporations and of national banking associations located in New York state, and of joint-stock companies or associations organized under New York laws, and including all dividends and rights to subscribe to the stock of such corporations, joint-stock companies, associations, or banks; (c) shares of stock in foreign corporations, joint-stock companies, and associations, and the bonds, notes, mortgages, and other evidences of interest in any corporation, joint-stock company, or association, wherever incorporated or organized, where the property represented by such stock, etc., consists of real property located wholly or partly within New York, to the extent to which the value of the stock, etc., is enhanced or is represented, or is secured, by real estate in New York owned by such corporation, joint-stock company, or association, except in the case of stock, etc., in moneyed corporations, railroads, or transportation, public service or manufacturing corporations as defined by law; (d) interest in a partnership business conducted wholly or partly within the state of New York, and interest in good will of such business; (e) capital invested in business in New York state by decedent doing business either as principal or partner.

Section 221-c. Rule for fixing the tax upon transfers from nonresident decedents.—To fix the tax in the case of a transfer from a nonresident decedent, determine—

First. The aggregate transfer; that is, the fair market value of the property, real or personal, whether within or without the state, passing to the transferee from the estate of the de-

cedent, after making the deductions computed as if the decedent were a resident of this state and all his property were located within this state.

Second. The New York transfer; that is, the fair market value of that part of the property, included in said aggregate transfer, passing to the transferee from property of which the transfer is taxable under this chapter, after computing the deductions as aforesaid.

Third. The tax which would be imposed upon such aggregate transfer, if the whole thereof were taxed under this chapter.

The amount of the tax upon the transfer taxable hereunder shall be such a part of what the tax would be upon said aggregate transfer as the said New York transfer bears to the said aggregate transfer, but without increasing the graded rate by the inclusion of property without the state, and without taxing transfers of which the amount is not over \$500.

Section 221-d. Optional commutation of the tax in non-resident estates.—Provided, that it is proved to the satisfaction of the surrogate that the amount of the tax will not be decreased by the following method, the transfer tax in the estate of a nonresident decedent may be commuted and finally settled as between the state and all parties in interest by the payment to the State Tax Commission of a sum to be determined by the commission, which sum shall be not less than two per centum upon the clear market value of all the property within the state taxable under this article, and without deduction or exemption of any kind.

(b) Official in charge of administration and collection

Transfer Tax Bureau, State Tax Department, Albany, N. Y., and 233 Broadway, New York City.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer. Discount of 5 per cent. allowed, if paid within 6 months from death or date tax accrued. If not paid within 18 months, interest at rate of 10 per cent. is added from time tax was due, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

The following summary of corporate taxation is from the Report of the Special Joint Committee on Taxation and Retrenchment (March, 1922):

A—Taxes Paid by Business Corporations.

(The term "business corporations" covers mercantile and manufacturing corporations, excluding:

- a. Real estate corporations.
- b. Holding corporations.
- c. Transportation and transmission corporations.
- d. Elevated or surface railroads not operated by steam.
- e. Waterworks companies, gas companies, electric or steam heating, lighting and power companies.
- f. Insurance corporations.
- g. Banks, state and national.
- h. Savings banks.
- i. Trust companies.
- j. Investment companies.

See article 9-a, section 210, Tax Law.)

1. Franchise Tax (article 9-a, Tax Law), $4\frac{1}{2}$ per cent. on net income.

(Minimum tax to be not less than \$10 and not less than one mill upon each dollar of issued capital stock.)

(Definition of net income: "Total net income before any deductions have been made for taxes paid or to be paid to the government of the United States on either profits or net income or for any losses sustained by the corporation in other fiscal or calendar years whether deducted by the government of the United States or not." Section 208, article 9-a, Tax Law.)

2. General Property Tax (articles 1-5, inclusive, Tax Law).

(Business corporations are taxable on real property and certain fixed equipment; they are exempt from the payment of taxes on personal property. See article 9-a, sections 219-i, 219-j, Tax Law.)

B—Taxes Paid by Financial Institutions.**1. State and National Banks.****a. Bank Stock Tax** (article 1, section 13, article 2, sections 23–24, Tax Law).

1 per cent. on value of shares (total value of shares equal to capital, surplus and undivided profits).

b. General Property Tax (articles 1–5, inclusive, Tax Law).
(Institutions paying the bank stock tax are taxable only on real property; they are exempt from the payment of taxes on personal property. See article 2, section 24-c.)**2. Trust Companies.****a. Franchise Tax** (article 9, section 188, Tax Law).

1 per cent. on capital, surplus and undivided profits (based on *average* during preceding year).

b. General Property Tax.

(On real property; trust companies are exempt from payment of taxes on personal property. See article 9, section 205, Tax Law.)

3. Investment Companies.**a. Franchise Tax** (article 9, section 188-a, Tax Law).

1½ mills for each dollar, face value, of capital.

1 per cent. on surplus and undivided profits.

b. General Property Tax.

(On real property; investment companies are exempt from payment of taxes on personal property. See article 9, section 205, Tax Law.)

4. Savings Banks.**a. Franchise Tax** (see article 9, section 189, Tax Law).

1 per cent. on par value of surplus and undivided earnings.

b. General Property Tax.

(On real and personal property; deposits in savings banks exempt from taxation.)

5. Insurance Corporations and Surety Companies.**a. Franchise Tax** (article 9, section 187, Tax Law).

1 per cent. on excess of gross amount of premiums charged over deductions allowed by law, on business done with this state during previous calendar year.

b. General Property Tax (on real and personal property).**C—Taxes Paid by Public Service Corporations.****1. Steam Railroads.****a. General Franchise Tax** (article 9, section 182, Tax Law).

(Franchise tax is based upon the capital stock of the corporation. Tax rate variable, depending upon dividend rate, relation of assets to liabilities, and average price of stock sold.)

b. Additional Franchise Tax (article 9, section 184, Tax Law).

One-half of 1 per cent. on gross intrastate earnings (not including earnings derived from business of an interstate character).

C—Taxes Paid by Public Service Corporations—Continued.**1. Steam Railroads—Continued.****c. Special Franchise Tax (article 2, sections 44-49, Tax Law.)**

(Tax Commission annually determines valuation of special franchises subject to assessment in each city, town or village. Final equalized valuation is the assessed valuation on which all taxes based upon special franchise are levied by local authorities. Tangible property situated upon streets, highways, public places or public waters in connection with the special franchise is taxed with such franchise.)

d. General Property Tax.

(Real and personal property, excluding that which is assessed with special franchises, is taxed under this head.)

2. Telephone and Telegraph Companies.

(Taxed upon same basis as steam railroads.)

3. Elevated or Surface Railroads not operated by steam.**a. Franchise Tax (article 9, section 185).**

1 per cent. on gross earnings from all sources within the state.

3 per cent. upon amount of dividends declared or paid in excess of 4 per cent. upon actual amount of paid-up capital.

b. Special Franchise Tax (article 2, sections 44-49, Tax Law).

(Same as steam railroads.)

c. General Property Tax.

(Same as steam railroads.)

4. Other Transportation Companies (taxed upon same basis as steam railroads).**5. Waterworks Companies, Gas Companies, Electric or Steam Heating, Lighting and Power Companies.****a. Franchise Tax (article 9, section 186).**

One-half of 1 per cent. on gross earnings from all sources within the state.

3 per cent. upon amount of dividends declared or paid in excess of 4 per cent. upon actual amount of paid-up capital.

b. Special Franchise Tax (article 2, sections 44-49, Tax Law).

(Same as for steam railroads.)

c. General Property Tax.

(Same as steam railroads.)

D—Taxes Paid by Corporations not Included in the Above Classes.**1. Realty Companies.****a. General Franchise Tax (article 9, section 182, Tax Law).**

(Franchise tax based upon the capital stock of the corporation.)

b. General Property Tax (on real and personal property).

D—Taxes Paid by Corporations not Included in the Above Classes—
Continued.

2. Holding Companies.

a. General Franchise Tax (article 9, section 182, Tax Law).

b. General Property Tax (on real and personal property).

(b) Organization taxes

Payable to State Treasurer, before filing certificate of incorporation with Secretary of State, a tax of one-twentieth of 1 per cent. upon the amount of capital stock which the corporation is authorized to have, but in no case less than \$10. In the case of shares without nominal or par value, the organization tax is at the rate of 5 cents on each such share which the corporation is authorized to issue. In addition to the organization tax, a filing fee of \$30 must be paid to the Secretary of State. In all counties except New York, Kings, Queens, Bronx, and Richmond, the county clerk's fee for filing the certificate of incorporation is 6 cents and for recording the same 10 cents per folio. In the above enumerated counties the filing fee is 25 cents and the recording fee is 10 cents per folio.

(c) Annual franchise taxes under articles 9 and 9-a of the
Tax Law

Under the Tax Law of the state of New York franchise taxes are assessable under two articles, namely, article 9 and article 9-a. The term "corporation," under this act, "includes a joint-stock company or association *and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument.*" (Matter in italics added by chapter 376, Laws of 1922.)

Article 9-a: For the privilege of exercising its franchise in this state in a corporate or organized capacity every domestic corporation, and for the privilege of doing business in this state every foreign corporation [except corporations wholly engaged

in the purchase and sale of, and holding title to, real estate for themselves, corporations whose sole business consists of holding the stocks of other corporations for the purpose of controlling the management and affairs of such other corporations, except such as are specifically subject to report under the provisions of subdivision nine of section two hundred and eleven of the tax law, and corporations liable to tax under sections one hundred and eighty-four to one hundred and eighty-nine inclusive of the tax law, banks, savings banks, institutions for savings, title guaranty, insurance or surety corporations],¹ are required to report annually on or before July 1st under the provisions of article 9-a of the Tax Law and to pay a franchise tax at the rate of $4\frac{1}{2}$ per cent. on such proportion of entire net income as the value of their real property and tangible personal property, certain bills receivable and stocks of other corporations within the state bear to certain of its gross assets of the above classes wherever employed by it in its business, or "not less than one mill upon each dollar of such a part of its issued capital stock, at its face value, as the amount of its gross assets employed by it in its business in this state bears to its gross assets wherever employed by it in its business." But if such a corporation has stock without par value, then the base of the tax, with relation to such stock, shall be such a portion of such issued capital stock, at not less than its actual or market value, and not less than \$5 per share, as may be determined by the Tax Commission, as its gross assets employed in its business in this state bear to the entire gross assets employed in its business. If such a corporation is subject to a tax at the rate of one mill, and it maintains no regular place of business outside this state, except a statutory office, it shall be taxed

¹ Corporations within these exceptions are taxable under article 9.

upon its entire issued capital stock as herein provided. In no case is this tax less than \$10.

In re section 182 of article 9: Corporations wholly engaged in the purchase and sale of, and holding title to, real estate for themselves; corporations whose sole business consists of holding the stocks of other corporations for the purpose of controlling the management and affairs of such other corporations, except such as are specifically subject to report under the provisions of subdivision 9 of section 211 of the Tax Law; and transportation and transmission corporations taxable under section 184 of the Tax Law (domestic corporations for the privilege of exercising their corporate franchises and foreign corporations for the privilege of doing business in this state)—are required to pay an annual franchise tax under section 182 of the Tax Law. Commencing with the current year this report is based on the year ending December 31st and the report is due annually on or before February 15th following. This tax is to be computed upon the basis of the amount of capital stock employed during the preceding year within this state and upon each dollar of such amount.

The measure of the amount of capital stock employed in this state shall be such a portion of the issued capital stock as the gross assets employed in any business within this state bear to the gross assets wherever employed in business. For purposes of taxation, the capital of a corporation invested in the stock of another corporation shall be deemed to be assets located where the physical property represented by such stock is located.

Every corporation, joint-stock company or association, subject to taxation under this section shall, in any event, pay a minimum tax of not less than \$10 nor less than one mill on each dollar of such a portion of the net value of its capital stock, which net value for the purposes of this section shall be

deemed to be not less than \$5 per share, as the amount of its gross assets employed by it in its business in this state bears to its gross assets wherever employed by it in its business. The term "net value" as used in this section shall be construed to mean not less than the difference between a corporation's assets and liabilities and not less than the average price at which such stock sold during said year. But if the dividends made or declared on the par value of any kind of capital stock during any year ending with the 31st day of December amount to 6 or more than 6 per centum, the tax upon such kind of capital stock shall be at the rate of one-quarter of a mill for each 1 per centum of dividends made or declared upon the par value of the capital stock during said year, unless such a tax be less than the minimum tax hereinbefore provided in this section, and the Tax Commission shall, for such purpose, make a fair and equitable apportionment of the assets of the corporation, joint-stock company or association, between the different kinds of stocks.

If such corporation, joint-stock company or association shall have more than one kind of capital stock, and upon one of such kinds of stock a dividend or dividends amounting to 6 or more than 6 per centum upon the par value thereon, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than 6 per centum upon the par value thereof, then the tax shall be fixed upon each kind as hereinbefore provided.

The dividend rate for a corporation having stock without nominal or par value shall be determined by dividing the amount distributed as a dividend or dividends during the year by the net value of its assets, as of December 31st.

Insurance, railroad, canal, steamboat, ferry, express, navi-

gation, pipe line, transfer, baggage, express, telegraph, telephone, palace car, or sleeping car purposes, waterworks, gas, electric, or steam-heating, lighting, and power corporations are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes on property in the state and to entrance, annual income, and franchise taxes as follows:

(b) Entrance fees

Fees to Secretary of State:

For filing statement and designation, \$50; for issuing certificate of authority, \$2.

License tax to State Treasurer as follows:

Every foreign corporation, except banking corporations, fire, marine, casualty, and life insurance companies, co-operative fraternal insurance companies, and building and loan associations, doing business in this state, shall pay to the state treasurer for the use of the state, a license fee of one-eighth of 1 per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state, during the first year of carrying on its business in this state, which first payment shall not be less than \$10, and if any year thereafter any such corporation shall employ more than \$8,000 of its capital stock within this state on which a license fee has not been paid, then a license fee at the rate of one-eighth of 1 per centum shall be due and payable upon any such increase. The measure of the amount of capital stock employed in this state shall be such a portion of the issued capital stock as the

gross assets employed in any business within this state bear to the gross assets wherever employed in business. The issued capital stock of any corporation issuing shares without designated monetary value shall pay for the use of the state a license fee of 6 cents on each such share employed in this state, as hereinbefore provided. For purposes of taxation, the capital of a corporation invested in the stock of another corporation shall be deemed to be assets located where the physical property represented by such stock is located. The amount of capital upon which such license fees shall be paid shall be fixed by the state tax commission, which shall have the same authority to examine the books and records in this state of such foreign corporations, and the employees thereof, as it has in the case of domestic corporations, and the Comptroller shall have the same power to issue his warrant for the collection of such license fees, as he now has with regard to domestic corporations. No action shall be maintained or recovery had in any of the courts in this state by such foreign corporation after 13 months from the time of beginning such business within the state, without obtaining a receipt for the payment of the license fee upon the capital stock employed by it within this state during the first year of carrying on its business in this state.

(c) Annual franchise tax

As stated in 9 (c) above.

(d) Taxes against owner of stock in foreign corporations

Income tax displaces former personal property tax on such property as stock; hence only income from such stock is taxable to owner in New York.

11. Taxation of trusts and beneficiaries

Real estate held in trust is assessed against the trustee. For income tax, see digest above of Income Tax Law. Business trusts are included in the definition of "corporations" under Laws of 1922 for purposes of taxation. See 9c, above.

Transfer of certificate in business conducted by a trustee or trustees is subject to stamp tax. See section 12, below.

12. Stamp taxes on stock transfers

The Stock Transfer Tax Law imposes a tax on all sales or agreements to sell, or memoranda of sales, and all deliveries or transfers of shares or certificates of stock, or certificates of rights to stock, or certificates of deposit representing certificates taxable under the law, in any domestic or foreign association, company or corporation, or certificates of interest in business conducted by a trustee or trustees.

The tax is 2 cents per \$100 of par value or fraction thereof, and the tax is paid by procuring and affixing to the transferred certificate or to a bill or memorandum of sale accompanying the transferred certificate stock transfer tax stamps in an amount sufficient to pay the tax on the number of shares represented by the certificate. For example: A certificate for one share of \$100 par value stock should have affixed to it a 2-cent stamp; a certificate for 10 shares of the same stock should have 20 cents in stamps affixed.

A certificate for one share of \$10 par value stock should have affixed to it a 2-cent stamp, as this is the minimum amount of tax; but a certificate for 10 shares of the same stock (\$10 par value) would likewise require but a 2-cent stamp, as the total par value of the certificate would be but \$100.

A certificate for one share of no par value stock should have affixed to it a 2-cent stamp, and one for 10 shares of the same stock (no par value) would require 20 cents in stamps as the tax on no par value stock is 2 cents per share.

Stamps for payment of this tax are procurable from the Empire Trust Company, 120 Broadway, New York City, who are fiscal agents for the sale of these stamps. They may also be procured from subagent banks.

The Stock Transfer Tax Law has been in operation continuously since June 1, 1905, from which date transfers of stock have been taxable. An amendment enacted in 1922, and effective May 1, 1922, includes within its scope common-law trust certificates and other like certificates representing interest in a business conducted by a trustee or trustees, thus bringing Massachusetts trusts, Pennsylvania special partnerships, Great Northern ore certificates, and other such certificates within the provisions of the law.

The law imposes severe penalties for noncompliance with its provisions.

Administration of the law is under the direct supervision of the Bureau of Stamps and Licenses of the State Tax Department, Albany, from which pamphlet copies of the law and rules and regulations relating thereto may be secured on request.

NORTH CAROLINA

(Revised to May 15, 1922)

1. General features of tax system

North Carolina draws its revenue from various sources. In addition to the general property tax, there is an elaborate system of privilege or license taxes, for both state and county, and also state inheritance and income taxes. On corporations there is a franchise tax, graduated according to capital stock. Railroad, telegraph, telephone, express, and insurance companies also pay special taxes, based on gross receipts, but in some cases, where the assets of the company are invested in the state and taxable there, these are reduced.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Revenue Act, 1921, and the laws of North Carolina governing corporations, containing the taxes on corporations, may be obtained by addressing the State Tax Commission and Secretary of State, respectively, Raleigh, North Carolina. Copy of the inheritance tax laws may be secured from the Commissioner of Revenue.

3. State taxing officials

State Commissioner of Revenue, Raleigh, North Carolina.

4. Income tax

A new personal and income tax law combined in same act was passed by the Legislature in 1921. Laws 1921, c. —. By amendment to the state Constitution, which prohibited the

taxing of income from property taxed, an income tax law has been enacted applicable to income from the same general sources as income taxed by the federal government. Only incomes from salaries and fees were formerly taxable. The new law exempts income of citizens from established business outside of state, and taxes income of nonresidents from established business in state. Same rule applies to domestic and foreign corporations, based upon Connecticut rule of apportionment. Rates: 3 per cent. of corporate income derived from all sources within state, and a graduation from 1 to 3 per cent. of personal income; the graduation reaching the maximum at \$10,000.

5. General property tax

(a) Base

All real and personal property is subject to taxation, except as exempted by statute.

"Real property," for purposes of taxation, includes not only the land itself, but also all buildings, structures, and improvements.

"Personal property" includes moneys, goods, chattels, choses in action, and evidences of debt, including all things capable of ownership, not descendible to the heirs at law.

(b) Exemptions

(1) Public property; property for educational, religious, benevolent, charitable, asylum, reformatory, hospital, library, etc., purposes.

(2) All corporate property is made liable to taxation and tax exemptions to corporations are repealed, except as to property held for religious, charitable, educational, literary, or benevolent purposes, and cemeteries.

(c) Assessment

Every person owning property is required to make out, sign, and deliver to the assistant assessor a statement, verified by oath, of all real and personal property in his possession on the 1st day of May. Real property is listed in the township in which said property is situated. In listing mineral, quarry, or timber interests the owner shall describe the same in his list, together with the separate valuation of each separate tract of land in or on which the same shall be situated. An owner of separate timber interests shall list the same whether the timber be attached or detached from the soil.

All taxable polls and personal property located therein shall be listed in the township in which the person so charged resides on the 1st day of May. Goods and chattels situated in a township, town, or city, other than that in which the owner resides, are assessed in the township, town, or city where such property is located. All property is required to be assessed at its true value in money, which is held and deemed to be what the property would bring at cash sale when sold in such manner as such property is usually sold. The assessment of real property is in force for four years, except when improvements or deteriorations to the value of \$100 have been made. Penalty for not listing property is \$10 for every \$100 withheld from the assessor. Debts owing by any person may be deducted by the tax lister from the amount of the person's credits, and insurance companies may deduct from solvent credits an amount equal to their reinsurance reserve.

Corporations are required to make a report to the Corporation Commission on or before the 1st day of July each year, and shall estimate and appraise the capital stock at its actual value in cash on the 1st day of May, after deducting the assessed value of all real and personal estate upon which the

corporation pays taxes, and the value of the shares of stock legally held by such corporation in other corporations incorporated in the state and paying taxes on their capital stock, as indicated by the amount of profit made, and when the same is truly appraised a certificate thereof shall be forwarded to the Corporation Commission. If the Corporation Commission is not satisfied with the appraisement, they are empowered to make a valuation based upon facts contained in reports. There is a penalty of \$50 for failure to report on or before the 1st day of July, and it is the duty of the Corporation Commission to add 5 per cent. to the tax for each and every year said report is not furnished.

Companies taxed on capital stock are not assessed further on mortgages, bonds, or other securities and credits owned by them in their own right. Individual shareholders are not taxed on their stock. The corporation is required to pay the state tax on stock directly to the State Treasurer.

Banks shall list real estate in district where located for the purpose of state, county, and municipal taxation, and shall, during the month of June, list annually with the Corporation Commission, in the name of and for its shareholders, all the shares of its capital stock at their market or actual value, on the 1st day of June. Lists of shareholders and number of shares, with value, owned by each resident of the county, shall also be furnished to the county commissioners. Insolvent debts due banks may be deducted from the items of profits or surplus. Value is fixed by the Corporation Commission. The rate of taxation is the same as for other moneyed capital. Shares of stock in building and loan associations are to be listed by the secretary with the Corporation Commission on the first Monday in June at their actual value. The actual

value of shares pledged as security for loans are deducted. No other tax is to be charged on the association.

Foreign building and loan associations doing business in the state are required to list for taxation with the Corporation Commission, through their agent, the stock held by citizens of the state, county, city, or town where the owners of the stock reside. The stock is valued for taxation as other money investments of citizens of the state. Associations or officers who fail or refuse to list such shares owned by citizens of the state for taxation will be barred from doing business in the state.

(d) Rate

An ad valorem tax of 45 cents on every \$100 of the value of real and personal property is imposed.

(e) Collection

Taxes are due on the first Monday in October in each year, and are collected by the sheriff of the county, who may levy on personalty after November 1. Taxes are a lien on real property assessed after June 1. Taxes due the state from corporations assessed by the State Board of Corporation Commissioners are to be paid by the secretary of the company direct to the State Treasurer. Companies failing to pay the tax are liable to suit, and to a penalty of 50 per cent., to be included in the judgment.

7. Inheritance taxes

(a) General scope and rates

All real and personal property, of whatever kind and nature, which shall pass by will or by the intestate laws of this state from any person, who may die seized or possessed of the same while a resident of this state, whether the person or persons dying seized thereof be domiciled within or out of the state

(or, if the decedent was not a resident of this state at the time of his death, such property or any part thereof within this state), or any interest therein or income therefrom which shall be transferred by deed, grant, sale, or gift, made in contemplation of the death of the grantor, bargainor, donor, or assignor, or intended to take effect in possession or enjoyment after such death, to any person or persons or to bodies corporate or politic, in trust or otherwise, or by reason whereof any person or body corporate or politic shall become beneficially entitled in possession or expectancy to any property or the income thereof, is subject to a tax for the benefit of the state, as follows, that is to say:

Where the person or persons entitled to any beneficial interest in such property shall be the wife, lineal issue, adopted child, stepchild, mutually acknowledged child, lineal ancestor, husband, son-in-law, or daughter-in-law, at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 5 per cent. on amount over exemption over \$500,000. The exemptions to the beneficiaries of this class range from \$10,000 to wife to \$2,000 to the others, except minors, who are allowed an exemption of \$5,000.

Brother or descendants, sister or descendants, uncle, or aunt, at rates ranging from 3 per cent. on amount over \$200 to \$25,000 to 7 per cent. on amount over \$500,000. There is no exemption to the beneficiaries mentioned in this class, if the estate exceeds \$200.

Any other persons or corporations, at rates ranging from 5 per cent. on amount over \$200 (no exemption if estate exceeds this amount) to \$25,000 to 9 per cent. on amount over \$200 over \$500,000.

Property passing for religious, educational, or charitable purposes in state, entirely exempt.

All property of nonresidents within the state subject to same rate of taxation as property of residents. Allowable deductions in calculating the value of distributive shares: Debts of decedent; taxes accrued and unpaid; federal estate taxes and estate and inheritance taxes paid to other states, and death duties paid to foreign countries; drainage and street assessments; funeral and burial expenses; all amounts actually expended for monuments, not exceeding the sum of \$500; commissions of executors and administrators actually allowed and paid; and costs of administration, including reasonable attorney's fees.

(b) Official in charge of administration and collection

Commissioner of Revenue, Raleigh, N. C.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. Discount of 3 per cent. is allowed, if paid within 6 months; 6 per cent. interest is added from end of first year, and 10 per cent. from end of second year, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to organization and annual franchise taxes.

(b) Organization taxes

Fees to State Treasurer:

For issuing certificate of incorporation, 40 cents for each \$1,000 of the total amount of capital stock authorized, but in no case less than \$40; for filing list of officers and directors, \$2.

Fees to Secretary of State:

For recording certificate of incorporation, \$1 for the first three copy sheets and 10 cents for each copy sheet in excess thereof.

Fee to clerk of superior court:

For recording the certificate of incorporation, \$3.

(c) Annual franchise taxes

Payable to State Treasurer:

One-tenth of 1 per cent. upon subscribed or issued and outstanding capital stock, which tax shall not be less than ten dollars in any case. Railroads, banks, building and loan associations, insurance companies, telegraph, telephone and express companies are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes on property in the state as above described and to entrance fees and to an annual franchise tax.

(b) Entrance fees

Such corporation shall pay to the Secretary of State, for the use of the state, twenty cents for every \$1,000 of the total amount of the capital stock authorized to be issued by such corporation; but in no case less than \$25, nor more than \$250, and also a filing fee of \$5.

(c) Annual franchise taxes

On or before October 15th the Auditor of State shall charge for collection, as herein provided, annually from such company, in addition to the initial fees otherwise provided for by law, for the privilege of exercising its franchise in the state,

a fee of one-tenth of 1 per cent. upon the proportion of the subscribed or issued and outstanding capital stock of this corporation represented by property owned and used for or business transacted in the state as found and certified by the State Tax Commission, which fee shall not be less than \$10 in any case. Such fee shall be payable to the State Treasurer on or before the 1st day of the following December.

Every person, individual, firm, or corporation selling or offering for sale stock in foreign corporations shall pay an annual tax of \$100.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in a foreign corporation which pays taxes on its property in the state where its property is situated, are taxable in North Carolina. *Worth v. Commissioners*, 90 N. C. 409 (1884).

NORTH DAKOTA

(Revised to July 10, 1922)

1. General features of tax system

From 1889 to 1917 North Dakota depended almost entirely upon the general property tax for state, county, and local revenues. All property was required to be valued and assessed on the basis of 100 per cent. full and true value. The actual basis of assessment was approximately 25 per cent. of full and true value. Corporations, with the exception of insurance companies, were taxed only under the general property tax laws of the state; the property of corporations being taxed the same as the property of individuals. An occupation tax was imposed on insurance companies. Foreign insurance companies doing business in the state were required to pay a tax of $2\frac{1}{2}$ per cent. of their gross premiums. Section 4924, C. L. 1913. Domestic fire insurance companies were required to pay one-half of 1 per cent. of their gross premiums. Section 216, C. L. 1913. Domestic life and casualty companies were not subject to the gross premiums tax. There were no other special corporation taxes, with the exception of the organization taxes. The taxation of insurance companies as given above is still in effect.

In 1917 an act was passed providing for the classification of property. Chapter 59, Laws of 1917. Under the classification law of 1917, property was divided into three classes and required to be valued at 30, 20, and 5 per cent. of its full and true value, respectively. This law was in effect during the assessment year of 1918 only.

In 1917 there was also enacted a money and credits law, under the provisions of which money and credits were taxed at

the rate of three mills on a dollar. Chapter 230, Laws of 1917. This law was in effect during the assessment years 1918 and 1919, but was repealed by the special session of the Legislature in 1919. The repeal provided that money and credits, including stocks and bonds, should be exempt from taxation in this state. Chapter 62, Special Session Laws of 1919.

A state inheritance tax law was passed in 1903. The act provided for the taxation of estates going to collateral heirs at the rate of 2 per cent. where the value of the estate exceeded \$25,000. In 1913 it was extended to also include direct heirs. Sections 8976-9000, C. L. 1913. The inheritance tax law of 1913 was amended and re-enacted in 1917 (chapter 231, Laws of 1917), and again in 1919 (chapter 225, Laws of 1919). Under the provisions of each of these laws, intangible investments of nonresidents in North Dakota were taxed. An amendment passed by the 1921 Legislative Assembly, effective July 1, 1921, exempted intangible investments of nonresidents from the inheritance tax. Chapter 125, Laws of 1921. Intangible investments of nonresidents, consequently, are not taxable under either the property or inheritance tax laws.

In 1919 the classification law of 1917 was repealed and a new classification law was enacted. Chapter 220, Laws of 1919. Under the provisions of this law, property was divided into two classes. Class 1 was required to be valued and assessed at 100 per cent. of full and true value, and class 2 at 50 per cent. of full and true value. This law has been in effect since March, 1919.

In 1919 an income tax law (chapter 224, Laws of 1919, amended by chapter 60, Special Session Laws of 1919) and also a capital stock tax law (chapter 222, Laws of 1919) were enacted applicable to all general corporations. The income tax law also imposes a tax on the income of every individual,

whether resident or nonresident, derived from sources from within the state. The income of nonresidents derived from tangible property within the state of North Dakota is taxable under the income tax law.

In 1919 there was also enacted a modified sales tax on petroleum products (chapter 227, Laws of 1919, amended by chapter 64, Special Session Laws of 1919), under the provisions of which oil companies were required to pay a tax ranging from one-fourth of 1 cent. to one cent. per gallon upon all petroleum products used for the generation of heat, light, and power.

North Dakota also has a motor vehicle license tax, which is in lieu of a property tax; also a gross earnings tax, applicable to car line companies.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the income and capital stock tax laws may be obtained by addressing the State Tax Commissioner, Bismarck, North Dakota.

3. State taxing officials

State Tax Commissioner, Bismarck, North Dakota.

4. Income tax

The 1919 Legislature passed an income tax law (chapter 224, Laws of 1919, amended by chapter 60, Special Session Laws of 1919), which imposed a tax on corporations at the flat rate of 3 per cent. on the entire net income of any corporation, whether foreign or domestic, derived from sources within the state of North Dakota, and imposed a tax on individuals, both residents and nonresidents of North Dakota, upon all income derived from sources within the state. Income of in-

dividuals was divided into two classes, one of which was termed "earned" and the other "unearned" income. Earned income included all income received as wages, salaries, fees, and the profits derived from any business, personally managed or conducted, as a partnership or as an individual undertaking. Unearned income included income received from moneys invested, such as income from rent of land, interest on mortgages, notes, bonds, and other interest-bearing obligations, and dividends from shares of stock. Earned incomes are subject to a tax at the rate of one-fourth of 1 per cent. on the first \$1,000, and an additional one-fourth of 1 per cent. for each additional \$1,000 up to \$20,000; net income in excess of \$20,000 and not in excess of \$30,000 is taxed at the rate of 6 per cent.; in excess of \$30,000 and not in excess of \$40,000, at the rate of 8 per cent.; all income in excess of \$40,000 at the rate of 10 per cent. Unearned incomes are subject to a tax of one-half of 1 per cent. upon the first \$1,000 or fraction thereof, and the rate progresses by one-half of 1 per cent. until \$10,000 is reached; incomes between \$10,000 and \$20,000 bear a tax of 6 per cent.; between \$20,000 and \$30,000, 8 per cent.; and in excess of \$30,000, 10 per cent. The personal exemptions allowed under the income tax law are: \$1,000 to each person subject to the tax, and an additional \$1,000 to a married man or person for the support of a dependent; \$200 exemption is allowed for each additional dependent. The law, as originally drawn, provided for the collection of the income tax at the source by all individuals or corporations owing payments of interest, rents, profits, etc., whether to residents or nonresidents of the state. It was found that this provision involved very great administrative difficulties and the withholding feature of the law was repealed by the 1919 special session of the Legislature. In addition to the usual exemptions found in

income tax laws, the North Dakota law also exempts from tax all income from loans on North Dakota real property and all income derived from deposits in North Dakota banks.

5. General property taxes

(a) Base

All real and personal property in the state and all personal property of persons, or corporations, residing or doing business therein, except as specifically exempted, is subject to taxation. Section 2075, C. L. 1913.

"Real Property," for the purpose of taxation includes the land itself, whether laid out in town lots or otherwise, and all buildings, structures, and improvements, and all rights and privileges appertaining thereto, and all mines, minerals, and quarries in and under the same. Section 2076, C. L. 1913.

"Personal property" includes all goods, chattels, credits, moneys, and effects, wheresoever they may be, and all ships, boats, vessels, whether at home or abroad, and all capital invested therein; all moneys at interest, whether within or without the state, due the person to be taxed, and all other debts due such persons; all public stocks and securities; all stock in turnpikes, railroads, canals, and other corporations, except national banks out of the state owned by inhabitants of the state; the income of any annuity, unless the capital of such annuity be taxed within the state; all improvements made upon lands held under laws of the United States, the title to which is in any railroad company or other corporation not subject to the same mode and rule of taxation as other property. Section 2077, C. L. 1913. The gas and water mains and pipes laid in roads, etc., are personal property. Section 2097, C. L. 1913.

(b) Exemptions

(1) Public property and property used for educational, religious, cemetery, charitable, hospital, etc., purposes. Chapter 223, Laws of 1919.

(2) All structures and improvements on agricultural lands. Chapter 223, Laws of 1919.

(3) Structures and improvements used as a residence by the owner on village, town, or city lots, to the amount of \$500. Chapter 122, Laws of 1921.

(4) Household goods and furnishings, to the amount of \$300. Chapter 223, Laws of 1919.

(5) Clothing or other personal belongings of each individual subject to taxation, to the amount of \$300. Chapter 223, Laws of 1919.

(6) The tools of a workingman or mechanic, to the amount of \$300. Chapter 223, Laws of 1919.

(7) The tools, implements, or other equipment of a farmer, to the amount of \$500. Chapter 122, Laws of 1921.

(8) Money and credits, including stocks and bonds. Chapter 62, Special Session Laws of 1919.

(c) Assessment

There is but one assessment for state, county, and local purposes. All counties or parts of counties not organized into civil townships are divided into assessors' districts; each organized civil township in each county constitutes such an assessment district. Section 2125, C. L. 1913. All property is required to be assessed annually with reference to its value on April 1st. The assessor is required to determine the true and full value of each tract and parcel of real property by actual examination. A statement of personal property, verified by oath, is to be made by each resident of the state of full age and sound mind. It is the duty of the assessor to fix the true

and full value of all items of personal property and he is required to take as a basis the price at a fair voluntary sale for cash. Section 2127, C. L. 1913. Local boards of review correct and equalize assessments and add to the assessment rolls any property which may have escaped the attention of the assessor. The board of county commissioners acts as a board of equalization as between different assessment districts within the county, and raises or lowers by percentages different classes of property in the different districts. The state board of equalization equalizes assessments between the several counties of the state, raising or lowering by percentages different classes of property in the different counties.

Stockholders of every bank, state and national, are assessed on their stock where the bank is located. As a basis for valuation of the shares, the assessor is required to deduct the amount of the bank's net investment in real estate (not exceeding 60 per cent. of the amount of the capital, surplus, and undivided profits) from the aggregate amount of capital, surplus, and undivided profits. Chapter 61, Laws of 1917, amending section 2115, C. L. 1913. The property of corporations, except certain public service corporations, is assessed the same as the property of individuals. The state board of equalization directly assesses railroad, street railway, telephone, telegraph, express, and sleeping car property. Corporate excess is taxed under the general property tax. Corporate excess is found by adding to the market or actual value of capital stock the market or actual value of the bonded indebtedness, and deducting from such sum the value of all real and personal property owned by the company.

All automobiles, trucks, and other motor vehicles are taxed under a motor vehicle license tax, which is both a license and a property tax. Such tax is in lieu of all other taxes, either

state or local upon motor vehicles. Chapter 44, Special Session Laws of 1919.

Gasoline, kerosene, and certain other petroleum products are assessed under the oil tax law, which imposes a tax ranging from one-fourth of 1 cent per gallon to one cent per gallon upon gasoline and kerosene and other petroleum products in the hands of each oil company engaged in storing, shipping, consigning, distributing, or selling petroleum products or by-products. This tax does not cover lubricating oils or greases. The tax is in lieu of all other taxes upon such property. Chapter 227, Laws of 1919, as amended by chapter 64, Special Session Laws of 1919.

Freight line and car equipment companies are taxed at the rate of 6 per cent. on their gross earnings within the state, and their property is not subject to the general property tax. Chapter 59, Special Session Laws of 1919.

The classification of property tax law passed by the Legislative Assembly of the state in the year 1919 divides all property into two classes. Class 1 is required to be valued and assessed at 100 per cent. of full and true value, and class 2 at 50 per cent. of full and true value. Class 1 includes all railroads and other public utilities, bank stock, land, flour mills, elevators, warehouses and storehouses, buildings and improvements upon railway rights of way or sites leased from railway companies and other public utility corporations, and structures and improvements on town and city lots used for business purposes. Class 2 includes all live stock, agricultural and other tools and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, all vehicles, automobiles, motor trucks, and other power-driven cars, boats and all water craft, harness, saddlery, and robes, structures and improvements used for homes upon town and city lots, and all

property not specifically mentioned. Chapter 220, Laws of 1919.

(d) Rate

The rate of levy is uniform on all property within a taxing district. The state tax is levied by the state board of equalization and is to be the amount necessary to meet the appropriations of the Legislative Assembly and the estimated general expenses of the state. The State Constitution limits the rate of tax for state purposes to four mills, not including levies for sinking and interest funds.

(e) Collection

Taxes are collected by the county treasurers for state, county, township, city, village, school, or other purposes. Collection of personal property taxes may be enforced by distress and sale of such property. Personal property taxes become a lien on the property at the time when assessment is made. Taxes on real property are made a perpetual lien upon the property assessed. The collection of taxes on real property is enforced by sale.

Taxes—When due and when delinquent

Real estate taxes are due December 1st, each year. One-half becomes delinquent March 1st, following. The second half becomes delinquent October 15th, following.

Penalties.—A 5 per cent. penalty attaches to the one-half becoming delinquent on March 1st and an additional penalty of 2 per cent. on June 1st, and a further penalty of 3 per cent. on November 1st, following. The second half becomes delinquent on the 15th day of October, and if unpaid on that date a penalty of 5 per cent. is added thereto; on November 1st an additional penalty of 5 per cent. is added. Chapter 67, Special Session Laws of 1919.

Hail Insurance Tax.—The full amount of the hail tax, both flat and indemnity, is due on December 1st of each year, and delinquent on the 1st day of March following; a penalty of 5 per cent. attaches as soon as the same are delinquent, an additional penalty of 2 per cent. June 1st, and a further penalty of 3 per cent. November 1st. Chapter 77, Laws of 1921, section 10. All personal property taxes become due on the 1st day of December in each and every year, and become delinquent on the 1st day of March following, and thereupon a penalty of 5 per cent. attaches, and an additional penalty of 1 per cent. per month upon the original amount of the tax until the same is paid.

7. Inheritance taxes

(a) General scope and rates

In the case of all estates where decedent dies between March 15, 1913, and June 30, 1917, the inheritance tax is computed under the inheritance tax law of 1913; in all estates where the decedent died between July 1, 1917, and March 4, 1919, the inheritance tax is computed under the inheritance tax law of 1917; in all estates where decedent died on or after March 5, 1919, the inheritance tax is computed under the inheritance tax law of 1919; and in all estates where the decedent died on or after July 1, 1921, the inheritance tax is computed in accordance with the provisions of chapter 125 of the Laws of 1921, which provides that intangible investments of nonresidents within this state are exempt from taxation.

(1) *What is Taxed.*—All property, real, personal, or mixed, of a resident of North Dakota. A reciprocal provision in the law provides that the tangible personal property of a resident situate in another state shall not be subject to an inheritance tax in this state in case the state in which the property is

located has a like provision exempting tangible property of a resident of that state without the state. Real and tangible personal property of a nonresident which is within the state is subject to the inheritance tax. In all cases where the decedent died prior to July 1, 1921, intangible investments of non-residents within this state are also subject to the tax.

(2) *Who is Taxed.*—Transfers to direct or collateral heirs and all others.

(3) *How Tax is Collected.*—The county court determines the tax.

Foreign executors must file with the state an inventory of decedent's property in the state.

Corporations are responsible for tax on assets or securities in their possession.

Administrators, executors, and beneficiaries are personally liable for the tax.

The tax is a lien on property until paid.

(b) Official in charge of administration and collection

Tax Commissioner, Bismarck, North Dakota.

(c) When inheritance taxes are due—Discount and penalties

Accrues at date of death. No discount. After one year, 10 per cent. interest is added from date tax was due, but rate may be reduced to 6 per cent. for period of unavoidable delay.

Synopsis of the inheritance tax law of 1919

Property Taxed.—A tax shall be and is imposed upon any transfer of property, real, personal, or mixed, or any interest thereon, or income therefrom, in trust or otherwise, to any person, association or corporation, *except* county, town or municipal corporations within the state for strictly county,

town or municipal purposes, and corporations of this state organized under its laws solely for religious or educational purposes which shall use the property so transferred exclusively for the purposes of their organization within the state, in the following cases, except as hereinafter provided:

(1) *Residents*.—When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state, provided that no tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subject to an inheritance or transfer tax in the state where located, and which tax has actually been paid: Provided such property is not without this state temporarily nor for the sole purpose of deposit or safe-keeping; and provided that the laws of the state where such property is located allow a like exemption in relation of such property left by a resident of that state and located in this state.

(2) *Nonresidents*.—When the transfer is by will or intestate law, of property within this state, and the decedent was a nonresident of the state at the time of his death; Provided, that for the purposes of the tax herein imposed the term property shall include all contracts, mortgages, shares of stock or bonds or other interest in tangible personal or real property existing in this state, however evidenced or expressed.

(3) *Contemplation of Death*.—When the transfer is made by a resident or nonresident of property within the state or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale or gift, made within six years prior to the death of the

grantor, vendor or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration shall be construed to have been made in contemplation of death within the meaning of this section.

Payment of Tax.—The tax is due and payable at the time of transfer. If not paid within one year thereof, interest at the rate of 10 per cent. per annum thereafter shall be charged. Necessary litigation or other unavoidable delay will reduce the penalty to 6 per cent. per annum until the cause of such delay is removed.

Any executor or administrator having in charge property for distribution shall deduct the amount of the tax therefrom or collect same from the beneficiary. All executors and administrators shall have power to sell sufficient property of the decedent to pay the tax.

Liability.—Administrators, executors and beneficiaries shall be personally liable for the tax until paid. The tax is a lien on property until paid.

Mortgages.—No register of deeds shall record a satisfaction or assignment of a mortgage executed by a foreign executor or administrator unless he is assured that the tax has been paid.

Transfer of Assets.—No safe-deposit company, bank, corporation or person having in their possession or control securities, deposits or other assets of a nonresident decedent shall deliver or transfer the same to the decedent's legal representatives without submitting to the company, bank, corporation or persons evidence that the tax has been paid.

Penalty.—Any register of deeds, safe-deposit company, bank, corporation or person violating this provision shall be liable for the tax.

Rates and Exemptions.—The tax so imposed is upon the clear market value of such property at the rates hereinafter prescribed, and only upon the amount in excess of the debts of such decedent, costs of administration and the exemptions hereinafter granted; providing that in computing said clear market value all inheritance taxes paid to the federal government shall be deducted.

The tax upon property or any beneficial interest therein passing to husband, wife, lineal issue, lineal ancestor, adopted child, mutually acknowledged child, lineal issue of either, at rates ranging from 1 per cent. on amount over exemption to \$15,000 to 4 per cent. on amount over \$500,000. The amount of exemption to husband or wife is \$10,000, minors \$5,000, and others of the above-mentioned class \$2,000. Brother, sister, descendant of either, wife or widow of son, husband of daughter, at rates ranging from 1½ per cent. on amount over \$500 to \$15,000 to 6 per cent. on amount over \$500,000. Brother or sister of father or mother, descendants of either, at rates ranging from 3 per cent. on amount over \$250 to \$15,000 to 12 per cent. on amount over \$500,000. Brother or sister of grandfather or grandmother, descendants of either at rates ranging from 4 per cent. on amount up to \$15,000 to 16 per cent. on amount over \$500,000. Any others, at rates ranging from 5 per cent. on amount up to \$15,000 to 20 per cent. on amount over \$500,000.

The synopsis of the law of 1919, as given above, was amended in 1921 in the following respects: Intangible investments of nonresident decedents were declared to be exempt from inheritance tax and registers of deeds were authorized to accept for record all assignments and satisfactions of mortgage executed by foreign executors or administrators.

9. Domestic corporation taxes

(a) In general

Domestic corporations are subject to the general property taxes described above and to organization, income and franchise taxes.

(b) Organization taxes

Articles of incorporation are filed with the Secretary of State. General corporations are formed under the provisions of section 4494 et seq., C. L. 1913.

Fees payable to the Secretary of State: \$5 for filing and recording, and \$3 for issuing charter. Section 129, C. L. 1913.

Fee payable to State Treasurer is based upon capitalization: The first \$25,000, \$25; from \$25,000 to \$50,000, \$50; and for each additional \$10,000 or fraction thereof an additional fee of \$5. Section 4509, C. L. 1913.

Co-operative corporations are formed under the provisions of chapter 97, Session Laws of 1917; total fees \$19. Section 4, chapter 97, Session Laws of 1917; section 129, C. L. 1913.

Annual Reports.—All corporations authorized to transact business in the state must file an annual report with the Secretary of State, together with fee of \$2.50 for filing same. This report should be filed between July 1st and August 1st of each year; after August 1st a penalty of \$5 attaches; if report is not filed by October 1st, charter or authorization is canceled. Section 4518, C. L. 1913.

(c) Income taxes

A tax of 3 per cent. is annually imposed upon the entire net income of any corporation derived from sources within the state of North Dakota. An additional tax of 5 per cent. must be paid upon the amount of the total net income received during the year remaining undistributed six months after the end of

each calendar or fiscal year. This undistributed profits tax does not apply to that portion of undistributed net income which is actually invested and employed in the business or retained for reasonable requirements of the business.

Deductions.—(a) All ordinary and necessary expenses.

(b) All losses actually sustained and charged off within the year, not compensated by insurance or otherwise.

(c) Interest and taxes paid within the year.

When the income of any corporation, whether domestic or foreign, is derived from any business conducted partly within and partly without the state, the tax shall apply to that portion of the total net income which the business within the state bears to the total business within and without the state; and where such business within the state is not otherwise more easily and certainly separable from such total business within and without the state, business within the state shall be held to mean that proportion of the total business within and without the state which the property of such corporation within the state bears to its entire property employed in such business within and without the state.

Annual franchise taxes

A tax of 50 cents on each \$1,000 over \$10,000 of the actual value of its capital stock or bonds actually outstanding. In estimating the value of the capital stock, surplus and undivided profits must be included.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to the general property tax as above on property in the state, and to entrance, income, and franchise taxes.

(b) Entrance fees

A foreign corporation, to be authorized to transact business in the state, must file a certified copy of its articles of incorporation and amendments, if any; a certificate from the Secretary of State of incorporation, that the charter has not been canceled and that the company is engaged in active business. Such corporations shall also appoint the Secretary of State of the state as its attorney for acceptance of service.

Total fees are divided as follows: Filing and recording articles of incorporation and amendments, \$20; for filing and recording power of attorney, \$5; for issuing certificate, \$3. Section 129, C. L. 1913.

An annual report must be filed with the Secretary of State, together with fee of \$2.50 for filing same. This report should be filed between July 1st and August 1st of each year. After August 1st a penalty of \$5 attaches, and if the report is not filed by October 1st authorization is canceled. Section 4518, C. L. 1913, and section 4521 as amended by chapter 99, Laws of 1917.

(c) Income tax

A tax of 3 per cent. is imposed upon the total net income received in the preceding calendar year from all sources within the state, including interest on bonds, notes, and other interest-bearing obligations of resident corporations or otherwise. Income derived from dividends on capital stock or from net earnings of resident corporations whose net income is deductible in arriving at the net taxable income. An additional tax of 5 per cent. is imposed upon the total net income remaining undistributed after the end of each calendar or fiscal year.

Corporation income tax becomes due June 1st and delinquent July 15th, except when report is made on the basis of

fiscal year not corresponding to the calendar year. When such fiscal year does not correspond with the calendar year, taxes are due 105 days after the day upon which return is required to be filed, and a penalty of 5 per cent. attaches upon date tax becomes delinquent, and an additional penalty of 1 per cent. per month from the time the same became due until paid.

Annual franchise tax

Fifty cents for each \$1,000 of the capital actually invested in the transaction of business in the state. An exemption of \$10,000 is allowed.

In the case of a corporation engaged in business partly within and partly without the state, investment within the state shall be held to mean that proportion of its entire stock and bond issues which its business within the state bears to its total business within and without the state, and where such business within the state is not otherwise more easily and certainly separated from such entire business within and without the state, business within the state shall be held to mean such proportion of the entire business within and without the state as the property of such corporation within the state bears to its entire property employed in such business both within and without the state.

The tax is due August 1st and becomes delinquent October 10th, or 30 days after notice of the amount of tax is mailed by the State Treasurer. A penalty of 10 per cent. accrues if the corporation fails to pay the tax within 30 days after demand of State Treasurer has been made, and an additional tax of 1 per cent. for each month after the tax becomes delinquent, while the same remains unpaid. If such tax has been delinquent for 90 days, it shall, in the case of a domestic corpora-

tion, constitute sufficient ground for the annulment of the existence of such corporation in an action instituted by the attorney general for that purpose, and in the case of a foreign corporation the Secretary of State is required to cancel the registration of such corporation upon certificate of the tax commissioner.

(d) Taxes against owner of stock in foreign corporations

North Dakota does not assess any form of tax against the owner of stock in foreign corporations. The transfer of such stock was by act of the 1921 session of the North Dakota Legislature made exempt from the inheritance tax. Previous to that date such stock was subject to the inheritance tax.

11. Taxation of trusts and beneficiaries

Under the income tax law, the estate itself is taxed only in case income is not distributed during the year. Any income that is distributed is assessed to the individual who receives it.

OHIO

(Revised to May 15, 1922)

1. General features of tax system

Ohio has in the past few years, in a large measure, separated state from local taxation. Over three-fourths of the revenues for the support of the state government are now derived from a gross earnings tax, commonly called "excise" tax, on public utility corporations and a franchise tax on domestic and foreign corporations. The principal revenues for counties, townships, cities, and villages are derived from the general property tax. The assessed valuation of real property subject to ad valorem taxes is at its actual value.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the tax laws of Ohio, also copy of Inheritance Tax Act, may be obtained by addressing the State Tax Commission, Columbus, Ohio.

3. State taxing officials

The Tax Commission of Ohio, Columbus, Ohio.

4. Income tax

There is no income tax in Ohio.

5. General property tax

(a) Base

All property in the state, whether real or personal, and whether belonging to individuals or corporations, and all mon-

eys, credits, and investments in bonds, stocks, or otherwise of persons residing in the state are declared to be subject to taxation, except only such as may be expressly exempted.

"Real property" includes, not only land itself, with all things contained therein, but, unless otherwise specified, all buildings, improvements, and fixtures, with all rights and privileges pertaining thereto. The roadbed, water and wood stations, and such other realty as is necessary for the daily running of railroads, is classed as personal property.

"Personal property" includes every tangible thing, being the subject of ownership, whether animate or inanimate, other than money, and not forming part of any parcel of real property, as hereinbefore defined; the capital stock, undivided profits, and all other means not forming part of the capital stock of every company, whether incorporated or unincorporated, and every share, portion, or interest in such stock, profits, or means, by whatsoever name the same may be designated, inclusive of every share or portion, right, or interest, either legal or equitable, in and to every ship, vessel, or boat, of whatsoever name or description, used or designed to be used either exclusively or partially in navigating any of the waters within or bordering on this state, whether such ship, vessel, or boat shall be within the jurisdiction of this state or elsewhere, and whether or not the same shall have been enrolled, registered, or licensed at any collector's office or within any collection district in the state; the money loaned on pledge or mortgage of real estate, although a deed or other instrument may have been given for the same, if between the parties the same is considered merely as security.

"Money," or "moneys," is any surplus or undivided profits held by societies for savings or banks having no capital stock, gold and silver coin, bank notes of solvent banks in actual pos-

session, and every deposit which the person owning, holding in trust, or having the beneficial interest therein is entitled to withdraw in money on demand.

"Investment in bonds" are all moneys in bonds, or certificates of indebtedness, or other evidences of indebtedness of whatever kind, whether issued by incorporated or unincorporated companies, towns, cities, villages, townships, counties, states, or other incorporations, or by the United States, held by persons residing in this state, whether for themselves or others.

"Investment in stocks" are all moneys invested in the capital or stock of any association, corporation, joint-stock company, or other company, the capital stock of which is or may be divided into shares which are transferable by each owner without the consent of the other partners or stockholders, for the taxation of which no special provision is made by law, held by persons residing in the state, either for themselves or others.

"Credits" are the excess of the sum of all legal claims and demands, whether for money or other valuable thing, or for labor or services due or to become due to the person liable to pay taxes thereon, including deposits in banks or with persons in or out of this state, other than such as are held to be money as hereinbefore defined, when added together (estimating every such claim at its true value in money), over and above the sum of legal bona fide debts owing by such person; but, in making up the sum of legal bona fide debts owing there shall be taken into account no obligation to any mutual insurance company, nor any unpaid subscription to the capital stock of any joint-stock company, nor any subscription for any religious, scientific, literary, or charitable purpose, nor any acknowledgment of any indebtedness, unless founded on some

consideration actually received, and believed at the time of making such acknowledgment to be a full consideration therefor; nor any acknowledgment made for the purpose of diminishing the amount of credits to be listed for taxation: Provided, that pensions receivable from the United States shall not be held to be credits. Both credits and debts are to be estimated at no larger sum than it is believed can be collected or paid.

(b) Exemptions

(1) Public property, property used exclusively for armories, cemeteries, charities, churches, fire companies, indigent and insurance funds of certain secret, religious, and charitable societies, certain law libraries, colleges, and academies, not conducted for profit, etc.

(2) Bonds of the United States, soldier bonus bonds of Ohio, and any other bonds issued by Ohio or any subdivision thereof, outstanding on January 1, 1913, are exempt from taxation. All other bonds, issued by the state or any political subdivision thereof, are subject to taxation.

(3) Shares of stock in all Ohio corporations and shares of stock in foreign corporations, where two-thirds of the property of such corporations is taxed in Ohio, and where such corporation has complied with the laws of the state regarding qualifications, etc.

(c) Assessment

The law provides that the county auditor shall be the assessor of all real and personal property in his respective county, excepting the property of public utilities, which is assessed by the Tax Commission. Twenty-five freeholders of the taxing district may petition for a reappraisement, whereupon the auditor of the county is required to reappraise. The value of

the property assessed by the county auditors is allocated to the taxing district in which the property is located or in which its owner resides. The property of public utilities is apportioned by this commission as follows:

The property of steam and street suburban and interurban railroads is apportioned upon the following basis: Real estate, structures, and stationary personal property is apportioned to the taxing district in which it is located. All other property is apportioned to the taxing districts in the proportion that the road mileage in any district bears to the entire mileage.

The property of telegraph and telephone companies, after deducting real estate, which is assessed in the taxing district in which it is located, is apportioned among the taxing districts into or through which its lines run, so that to each shall be apportioned the proportion of the whole value of the company that the length of lines of wire in the taxing district bears to the whole length of the lines of wire everywhere.

The property of other utilities is apportioned among the several taxing districts in the proportion which the property located within the taxing district in question bears to the entire value of the property of such utility, as ascertained and determined by the commission, so that to each district there shall be apportioned such part of the entire valuation as will fairly equalize the relative value of the property therein located to the value of the whole thereof.

Exempt real estate must be listed and valued. Real estate, excluding growing crops, is assessed at its true value in money, and not at the price it would bring at auction or forced sale. The assessor "at the time of taking the lists of personal property," etc., each year corrects the assessment of real property by adding new buildings and deducting property destroyed

when over \$100 in value, and by correcting errors or omissions discovered. Every person of full age and sound mind is required each year to list all taxables in his possession. He is required to take oath that the property so "listed" is all that is owned by him or under his control subject to taxation on the second Monday in April, and that the value affixed to each item is the "true value thereof as ascertained by the usual selling price thereof for cash, at voluntary sales thereof at the time and place of listing," or such price as could be obtained for it in money at such sale. Persons claiming to have nothing to list must take oath to that effect. In case a person refuses to list his taxable property or refuses to swear to the list, the assessor makes return of such property, as he can find, and the auditor raises the assessment by 50 per cent. The penalty for a false return is an assessment at 50 per cent. in addition to true value. All officers connected with the assessment, from the assessor up, are authorized to examine persons under oath and to examine books, etc. The Tax Commission determines the amount of capital stock of domestic and foreign corporations, equalizes bank shares, and is constituted a board of equalization for real property. It is also required to ascertain and determine the amount of the subscribed or issued and outstanding capital stock of domestic corporations, and the proportion of the authorized capital stock of foreign corporations represented by property and business in Ohio. The real estate of a bank or banking association shall be taxed in the place where it is located, in like manner as the real estate of persons is taxed. Bank shares are listed at their true value in money and taxed where the bank is located. The bank collects the taxes due upon its shares of stock from the several owners of such shares, and pays same to the treasurer of the county; but where incorporated banks have no

stock the bank is required to pay taxes upon the capital employed or the value of the property representing it. The shares of stock of domestic building and loan associations, upon which no loans have been made or money advanced, are taxed to the holders individually. Shares and loans advanced to members are exempt from taxation. Merchants and manufacturers are assessed upon their average holding throughout the year, and not upon what they may happen to hold on tax day; transient traders are assessed upon that proportion of their stock which the time they are present bears to the year, and may be assessed whenever they arrive; thus a trader opening a shop for one month only pays on one-twelfth of his stock, whether he was present on tax day or not.

(d) Rate

The rate for state taxation, expressed in mills, upon each dollar of the assessed valuation of property, is fixed each year by the General Assembly.

(e) Collection

The lien for taxes attaches to the property in each year on the day preceding the second Monday in April, except bank taxes, which attach on the first Monday in May. All taxes, state, county, and local, are collected by the county treasurer. At least one-half of all taxes, and all the road tax, must be paid on or before the 20th day of December; the remainder, on or before the 20th day of June next ensuing. Delinquent taxes are collected by distraint and sale. In case of taxes on real estate which have become delinquent by failure to pay one-half on the 20th of December, and which cannot be collected by distraint and sale of personalty, the penalty is 15 per cent., if such taxes and penalty, including the remaining half thereof, are not paid on or before the 20th day of June,

or collected by distress or otherwise prior to the next August settlement, a like penalty shall be charged on the last half of such taxes and this, with taxes and costs, is eventually collected by sale of the property. On delinquent personal property, the penalty is 10 per cent.

7. Inheritance taxes

(a) General scope and rates

A tax is levied upon the succession to any property passing, in trust or otherwise, to or for the use of a person, institution, or corporation, in the following cases:

1. When the succession is by will or by the intestate laws of this state, from a person who was a resident of this state, at the time of his death.

2. When the succession is by will or by the intestate laws of this state, or another state or country, to property within this state, from a person who was not a resident of this state at the time of his death.

3. When the succession is to property from a resident, or to property within this state from a nonresident, by deed, grant, sale, assignment, or gift, made without a valuable consideration substantially equivalent in money or money's worth to the full value of such property:

(a) In contemplation of the death of the grantor, vendor, assignor, or donor; or

(b) Intended to take effect in possession or enjoyment at or after such death.

4. Whenever any person or corporataion shall exercise a power of appointment derived from any disposition of property heretofore or hereafter made, such appointment, when made, shall be deemed a succession taxable under the provisions of this subdivision of this chapter in the same manner as

if the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by said donee by will, and whenever any such person or corporation possessing such power of appointment shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a succession taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as if the persons, institutions, or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise the same, taking effect at the time of such omission or failure.

5. Whenever property is held by two or more persons jointly, so that upon the death of one of them the survivor or survivors have a right to the immediate ownership or possession and enjoyment of the whole property, the accrual of such right by the death of one of them shall be deemed a succession taxable under the provisions of this subdivision of this chapter, in the same manner as if the enhanced value of the whole property belonged absolutely to the deceased person, and had been by him bequeathed to the survivor or survivors by will.

6. When a decedent appoints one or more executors or trustees, and instead of their lawful allowance makes a bequest or devise of property to them, which would otherwise be liable to such taxes, or appoints them as residuary legatees, and such bequest, devise, or residuary legacy exceeds what would be a reasonable compensation for their services, such excess shall be a succession and liable to such tax, and the probate court having jurisdiction of their accounts shall fix such compensation.

7. When any property shall pass subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person, institution, or corporation, on the extinction and determination of such charge, estate, or interest, shall be deemed a succession taxable under the provisions of this subdivision of this chapter, in the same manner as if the person, institution, or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interests is derived.

Such tax shall be upon the excess of the actual market value of such property over and above the exemptions made and at the rates prescribed in this subdivision of this chapter as follows:

Property passing to wife, minor child, father, mother, husband, adult child, adopted child or lineal descendant of same, or lineal descendant of decedent, at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 4 per cent. on amount over exemption over \$200,000. The exemptions to wife or minor child is \$5,000; to the other above enumerated persons, \$3,500.

Brother, sister, niece, nephew, wife or widow of a son, husband of a daughter, or mutually acknowledged child, at rates ranging from 5 per cent. on amount over \$500 to \$25,000 to 8 per cent. on amount over \$500 over \$200,000.

Any others, at rates ranging from 7 per cent. on amount up to \$25,000 to 10 per cent. on amount over \$200,000.

Property used for state, municipal purposes, and for educational or charitable purposes carried on in whole or substantial part within the state, entirely exempt.

All property of nonresidents within the state subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

Tax Commission of Ohio, Columbus, Ohio.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. Discount of 1 per cent. per month is allowed for each full month that payment is made before end of one year. Interest at 8 per cent. per annum is added from first year, except that court order may reduce rate to 5 per cent. for unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

For filing articles of incorporation of a corporation whose capital stock is \$10,000 or under, \$10; over \$10,000, one-tenth of 1 per cent.

For filing articles of incorporation of a corporation with non-par value shares, a fee of 5 cents on each share of common stock, and in addition thereto a fee of one-tenth of 1 per cent. of the par value of the preferred stock, but in no case less than \$25.

(c) Franchise taxes

Three-twentieths of 1 per cent. upon its subscribed or issued and outstanding capital stock, which shall not be less than \$10. The fee shall be payable to the State Treasurer on or before

the 1st day of the following October after the annual report, which is filed in May.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and franchise taxes.

(b) Entrance fees

From the facts thus reported, and any other facts coming to his knowledge, the Secretary of State shall determine the proportion of the capital stock of the corporation represented by its property and business in this state, and shall charge and collect from such corporation, for the privilege of exercising its franchises in this state, one-tenth of 1 per cent. upon the proportion of its authorized capital stock represented by property owned and used and business transacted in this state, but not less than \$10 in any case. Upon the payment of such fee, the Secretary of State shall make and deliver to such foreign corporation a certificate that it has complied with the laws of Ohio and is authorized to do business therein, stating the amount of its authorized capital stock and the proportion of such authorized capital stock represented in the state.

A corporation which has filed its statement and paid the fee prescribed by the preceding two sections, and which thereafter shall increase the proportion of its capital stock, represented by property used and business done in this state, shall file within 30 days after such increase an additional statement with the Secretary of State, and pay a fee of one-tenth of 1 per cent. upon the increase of its authorized capital stock represented by property owned and business transacted in this state.

For issuing such certificate the Secretary of State shall be entitled to receive from a foreign corporation the following fees: A corporation having an authorized capital stock of \$100,000 or less, \$15. A corporation having an authorized capital stock of more than \$100,000, and not exceeding \$300,000, \$20. A corporation having an authorized capital stock of more than \$300,000, and not exceeding \$500,000, \$25. A corporation having an authorized capital stock of more than \$500,000, and not exceeding \$1,000,000, \$30. A corporation having an authorized capital stock of \$1,000,000 or more, \$50.

The amount of fees payable by a foreign corporation having common stock without par value under section 180 shall be the fees therein provided as to the authorized preferred stock, and 5 cents per share for the authorized common stock without par value, but such fees shall not be less than \$15 nor more than \$50. The amount of fees payable by such a foreign corporation under section 184 shall be one-tenth of 1 per cent. upon the proportion of authorized preferred stock represented by property owned and used and business transferred in this state, and 5 cents per share upon the proportion of the number of shares of authorized common stock, represented by property owned and used and business transacted in this state, but not less than \$10 in any case, and the fee payable under section 185 by such corporations shall be determined in the same manner, but not less than ten dollars in any case, and under section 5503 shall be three-twentieths of 1 per cent. upon the proportion of the authorized preferred stock represented by property owned and used and business transacted in this state and 5 cents per share upon the proportion of the number of shares of authorized common stock, represented by property owned and used and business transacted in this state, but not less than \$10 in any case.

(c) Annual franchise tax

On or before October 15th the Auditor of State shall charge for collection, as herein provided, annually, from such company, in addition to the initial fees otherwise provided for by law, for the privilege of exercising its franchises in this state, a fee of three-twentieths of 1 per cent. upon the proportion of the authorized capital stock of the corporation represented by property owned and used and business transacted in this state, which fee shall not be less than \$10 in any case. Such fee shall be payable to the Treasurer of State on or before the 1st day of the following December.

(d) Taxes against owner of stock in foreign corporations

Under section 192, General Code, the stock of foreign corporations is exempt under two conditions: First, when all the property of the corporation is taxed in Ohio; second, when two thirds of the property is taxed in this state, and the rest in another state or states, and, in addition, that the company pays franchise tax on the entire authorized capital stock at the same rate as a domestic corporation. The stock of all other foreign corporations owned by residents of Ohio is subject to taxation in this state, whether such corporation is admitted to do business or not.

11. Taxation of trusts and beneficiaries

Personal property, money, credits, investments in bonds, and stocks, joint-stock companies in the possession or control of trustees, executors, administrators, guardians, receivers, agents, etc., on the day preceding the second Monday of April in each year, are listed and entered upon the tax lists in names of such trustees, etc., adding a description of the capacity in which held, etc. Section 5372—1, General Code.

OKLAHOMA

(Revised to May 15, 1922)

1. General features of tax system

The Constitution of Oklahoma was adopted in 1907. It provides an extensive code of revenue laws, which has been supplemented by statutes, so that the general revenue laws now in force are definite as to the classification of all forms of taxable property and the requirements of listing same, the duties and powers of assessors, and the manner of equalizing assessments by boards of equalization for state and counties.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of Oklahoma, together with Laws Relative to Oil and Gas Pipe Lines, may be obtained by addressing the Secretary of State, Oklahoma City. Copy of the Inheritance Tax Law may be secured from the State Auditor, Oklahoma City.

3. State taxing officials

State Auditor, Oklahoma City, Oklahoma.

4. Income tax

Each and every person in the state shall be liable to an annual tax upon the entire net income, from all sources, in excess of \$3,000, at the following rates:

(a) On the first \$10,000 of such excess, or any part thereof, at the rate of $7\frac{1}{2}$ mills on the dollar.

(b) On the next \$15,000 of such excess, or any part thereof, 15 mills on the dollar.

(c) And on all such excess in addition to the aforesaid amounts, 20 mills on the dollar. Married persons are allowed a deduction of \$4,000, and for each child under the age of 18 years, \$300 additional. \$500 is allowed in addition to the above amounts for persons solely dependent upon the taxpayer, who is legally liable for their support, when such person is actually and permanently domiciled with the taxpayer while engaged in acquiring an education.

5. General property taxes

(a) Base

All property in the state, whether real or personal, including the property of corporations, banks, and bankers, except such as is exempt, is subject to the general property tax.

"Real property," for the purpose of taxation, is construed to mean the land itself and all buildings, structures, and improvements or other fixtures of whatsoever kind thereon, and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries, and trees on or under the same.

"Personal property," for the purpose of taxation, includes:

All goods, chattels, moneys, credits, and effects; all improvements made by others upon lands, the fee of which is vested in the United States or this state; all improvements, including elevators and other structures, upon lands the title to which is vested in any railway company or other corporation whose property is not subject to the same mode and rule of taxation as other property; the stock of nurserymen, growing or otherwise; the amount of money invested in bonds, stocks, or credits outside of the state of Oklahoma; all public

stock and securities, and stocks or shares in any national or other bank or company incorporated under the laws of this or any other state or of the United States, and situated and transacting business in this state; all shares in foreign corporations owned by residents of this state; all horses and neat cattle, mules, asses, sheep, swine, and goats; all household furniture, including gold and silver plate, musical instruments, watches, and jewelry; private libraries; all vehicles for transporting persons for pleasure or profit; all wagons, vehicles, or carriages; all implements or machinery appertaining to agricultural labor; all machinery and materials used by manufacturing and all manufactured articles; annuities; all moneys, goods, or property and capital employed in merchandizing; all agricultural implements or machinery, goods, wares, merchandise, or other chattels in this state in possession or under the control of or held for sale by any warehouseman, agent, factor, or representative in any capacity of any manufacturer or any dealer or agent of any such manufacturer; personal property belonging to persons or companies doing freight or transportation business and belonging wholly or in part to persons within this state for such part as is owned by said persons.

(b) Exemptions

(a) Property used for free public libraries, free museums, public cemeteries, and educational, religious, charitable, benevolent, etc., purposes within the state.

(b) The shares issued by a building and loan association and loaning its funds to members within the state and the notes and mortgages of building and loan associations doing business in the state under the laws of the state, and which are given by the members of such association upon real estate lo-

cated in the state, and which real estate is subject to taxation under the laws of the state.

(c) Assessment

The assessment of all property, except that of public service corporations, is made by the county assessors. The operative property and franchises of public service corporations are assessed by the State Board of Equalization. All property is to be assessed at its fair cash value, "estimated at the price it would bring at a fair voluntary sale." The assessment refers to the 1st day of January, and is to be completed and the report thereof transmitted to the State Board of Equalization not later than the Saturday before the first Monday of June.

Every person owning taxable property is required to list his property and the assessor is required to administer an oath as to the correctness of the list.

National bank stock is assessed to the stockholders at the place where the bank is located at its par value as of February 1. The banks pay the tax and have a lien on the stock and the dividends to secure reimbursement. The net receipts of foreign insurance companies are taxed as personal property of the agency.

Merchants and manufacturers list their stock by estimating the amount on hand during each month of the preceding year and dividing by the number of months. In case any person required by law to list his property fails to do so, the assessor is to estimate it and the valuation placed upon it by the assessor cannot be reduced by the Board of Equalization. A penalty of 50 per cent. is added for refusal to make a list.

Depreciated bank notes and depreciated stocks are to be estimated at their current value, credits at what the persons list-

ing them believe will be received or can be collected, and annuities at what they are worth in money.

(d) Rate

The state rate is limited by the Constitution to not to exceed $3\frac{1}{2}$ mills on the dollar. The actual rate within this limit is to be determined by the State Board of Equalization and it shall specify the purpose for which the tax is levied and shall in no case exceed the amount appropriated by the Legislature for such purpose. In making the estimate the board allows 20 per cent. for delinquencies.

(e) Collection

One-half of all taxes levied upon an ad valorem basis becomes due on the 1st day of November, and, if not paid on or before the 1st day of January, the entire tax levied becomes delinquent. If the first half is paid by the 1st day of December, the second half becomes delinquent the 15th of June thereafter. All delinquent taxes, as a penalty, bear interest at the rate of 18 per cent. per annum. The county treasurer is required to notify each taxpayer of the amount of his taxes and when the same become due and delinquent.

7. Inheritance taxes

(a) General scope and rates

A tax is laid upon the transfer to persons or corporations of property or any interest therein or income therefrom:

When the transfer is of tangible property in this state made by any person, or of intangible property made by a resident of this state at the time of transfer:

First. By will or the intestate laws of this state.

Second. By deed, grant, bargain, sale, or gifts, made in contemplation of the death of the grantor, vendor, or donor, or

intended to take effect in possession or enjoyment at or after such death.

Third. When the transferee becomes beneficially entitled in possession or expectancy by any such transfer whether made before or after the passage of this act. Said tax shall be upon the clear market value of such property.

Whenever the property within this state of a resident or nonresident decedent transferred by will is not specifically bequeathed or devised, such property shall for the purpose of this act be deemed to be transferred proportionally to and divided pro rata among all the general legatees and devisees named in said will, including all transfers under a residuary clause.

Whenever any person or corporation shall exercise power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provision of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been transferred to such donee by will.

Property passing to father, mother, husband, wife, child, adopted child, mutually acknowledged child, or lineal descendant, is taxed at rates ranging from 1 per cent. on amount over exemption to \$25,000 to 4 per cent. on amount over exemption over \$100,000. Exemptions: Wife, \$15,000; father, mother, husband, or lineal descendant, \$5,000 each; child, adopted child, or mutually acknowledged child, \$10,000 each. Brother, sister, wife or widow of a son, or husband of a daughter, at rates ranging from 1 per cent. on amount over \$1,000 to \$25,000 to 5 per cent. on amount over \$1,000 over \$100,000. All others,

at rates ranging from 6 per cent. on amount over \$500 to \$25,000 to 10 per cent. on amount over \$500 over \$100,000.

Property for religious, charitable, or educational purposes within state, is entirely exempt. All property of nonresidents within the state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

State Auditor, Oklahoma City, Oklahoma.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer. If tax is not paid within 12 months, 10 per cent. interest is added from date tax was due, except in case of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and franchise taxes.

(b) Organization taxes

Fees to Secretary of State:

For filing articles of incorporation and issuing certificate of incorporation, one-tenth of 1 per cent. of the authorized capital stock: Provided, that the minimum fee shall be \$3; also that corporations organized for religious or charitable purposes exclusively shall only be required to pay a fee of \$2.

(c) Annual franchise taxes

Fees to State Treasurer, on or before the 1st day of August of each year at the rate of 50 cents on each \$1,000 of its authorized capital stock, or less. The license fee shall not be required on that portion of the capital stock employed by any

corporation in any business upon which a production, income, or gross receipts tax is required to be paid.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual license taxes.

(b) Entrance fees

For issuing a license to a foreign corporation to do business in this state, and filing a copy of its charter, a fee is levied of one-tenth of 1 per cent. of the maximum amount of capital invested by said corporation in the state at any time during the fiscal year such license is issued to any such corporation. Every such foreign corporation shall, upon making application for license to do business in the state, cause to be filed with the Secretary of State an affidavit of its president, vice president, or other general managing officer, stating the maximum amount of capital such corporation intends and expects to invest in the state at any time during the current fiscal year, and shall, at the same time, pay to the Secretary of State one-tenth of 1 per cent. on said amount of capital which such corporation expects or intends to invest in the state during the current fiscal year as shown by said affidavit, but the amount so paid as a fee to the Secretary of State by such corporation shall in no instance be less than \$10.

Recording charter, 25 cents per folio; for affixing the seal of the Secretary of State, \$1; filing appointment of agent, \$1.

(c) Annual license fees

Each foreign corporation shall pay a license fee of \$1 for each \$1,000 of its capital stock employed in its business done

in the state, except public utility, oil, etc., companies liable to pay a gross receipt tax.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations is taxable to the owner in Oklahoma as personal property.

OREGON

(Revised to May 15, 1922)

1. General features of tax system

The revenues of the state are derived from the general property tax, income from deposits of state funds, inheritance tax, corporation license fees, and licenses on gross earnings of certain classes of corporations, and other minor sources. The general supervision of the taxation system is vested in the State Tax Commission. The State Tax Commission assesses all public utilities and then apportions the amounts to the counties to which they belong and they are thereupon added to the tax roll by the assessors.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of the State of Oregon, containing the taxes on corporations, may be obtained by addressing the Corporation Commissioner, Salem; also, pamphlet copies of the Inheritance Tax Laws of Oregon, may be obtained from the State Treasurer, Salem.

3. State taxing officials

State Tax Commission, Salem, Oregon.

4. Income tax

There is no income tax in Oregon.

5. General property tax

(a) Base

All real and personal property situated or owned within the state, except such as may be specifically exempted by law, is

subject to assessment and taxation in equal and ratable proportion.

"Real property" includes the land itself, all structures attached thereto, and other improvements thereon, and all rights and privileges thereto belonging; all franchises and privileges granted by the laws of the state or by municipal ordinance, other than the right to be a corporation; and all mines, minerals, quarries, fossils, and trees in, under, or upon the land.

"Personal property" shall be construed to include all things in action, household furniture, goods, chattels, moneys and gold dust, on hand or on deposit, all boats and vessels, whether at home or abroad, and all capital invested therein, all debts due or to become due from solvent debtors, whether on account, contract, note, mortgage, or otherwise, either within or without the state, all public stocks, all bonds, warrants, and moneys due or to become due from the state or any county or other municipal subdivision thereof, and stocks and shares in incorporated companies, and such proportion of the capital of incorporated companies liable to taxation on their capital as shall not be invested in real estate, and all improvements made by persons on land claimed by them under the laws of the United States, the fee of which land is still vested in the United States.

(b) Exemptions

(1) All property, real and personal, of the United States and the state, except land belonging to the state held under a contract for the purchase thereof.

(2) The personal property of all literary, benevolent, charitable, and scientific institutions incorporated within the state, and such real estate belonging to such institutions as shall be actively occupied for the purposes for which they were incorporated.

(3) Houses of public worship; public libraries; property of Indians on reservations who have not severed their tribal relations.

(c) Assessment

In general, there is but one complete assessment roll for state, county, and municipal taxes. The county is the unit, and the initial assessment is made by the county assessor. All property is to be assessed annually with reference to the first of March, at 1 o'clock a. m., at its true cash value—that is, the amount for which such property would sell at a voluntary sale made in the ordinary course of business. No deductions from assessments are allowed on account of indebtedness. It is the duty of the assessor to require each taxpayer, under a penalty of \$50, to furnish a sworn list of his property; but such list is not binding upon the assessor, but is merely to aid him in arriving at the items and true value of the property to be assessed. Shares of stock in national banks located in the state are assessed to the individual shareholders at the place where the bank is located. The shares of capital stock of national banks not located in the state, held in the state, are not assessed or taxed.

Shares of stock of other banks and interests in banking capital, building and loan associations, or trust companies are assessed to such banks, building and loan associations, or trust companies, at the place where such institutions are located.

The owner or holder of stock in any incorporated company which is taxed on its capital stock shall not be taxed as an individual for such stock. Personal property pledged is deemed to be the property of the person in possession. Personal property is assessed to the owner in the county of his actual residence, and includes all personal estate in his possession or control as guardian, executor, administrator, or trustee. The

personal property of corporations is taxed in the county where the principal place of business is located, unless otherwise provided by law; that of those engaged in navigation, at the home port of the water craft, in whatsoever county located. The undivided estate of any deceased person may be assessed to his heirs or devisees, and each heir and devisee is liable for the whole of such tax, with the right of contribution from the other heirs and devisees to the payor. Every person, firm, corporation, or association holding real or personal property is required to list same and state in his account thereof to the assessor the true cash value of all such property, and may be required by the assessor to verify same under oath. Personal property of nonresidents is assessed in the same manner as that of resident citizens. The actual value of the real estate of a bank is deducted from the aggregate amount of its capital stock, surplus fund, and undivided profits, and assessed and taxed as other real estate. The remainder constitutes the value of the shares of stock as a basis for taxation in the hands of the stockholders. A list of stockholders, showing the number of shares held by each party in interest, is furnished the assessor annually between the 1st day of April and the 15th of May relating to such ownership as of the hour of 1 o'clock a. m. on the 1st day of March preceding. Such taxes become a lien on the shares and upon any dividends earned, and when unpaid become delinquent after the first Monday in May in each year, and may be sold on execution in the same manner as other property is sold for delinquent taxes.

(d) Rate

Taxes for the support of the state government are apportioned among the several counties in the proportion which the total taxable property of each county, as equalized by the State

Tax Commission, bears to the total taxable property of all the counties as so equalized.

(e) Collection

The amount of state tax apportioned to the county is to be levied and collected in the same manner as the county taxes, and the county is debtor to the state for this amount. One-half is to be paid over by the county treasurer by May 1, and the remainder by November 1. Taxes on real property are due from the day the warrant for collection is issued to the sheriff, and all taxes are due on or before the 5th of April following the levy; but, if one-half is paid at that time, the remainder need not be paid till on or before the 5th of October. For delinquency a penalty of 5 per cent. is charged, with interest at 12 per cent. Delinquent taxes on personal property may be collected by the sheriff by levy and sale, and may be charged against real property of the owner, in which event they become a lien upon such real estate, the same as taxes upon real estate. Six months after taxes on real property become delinquent, it is the duty of the tax collector after demand for payment of the taxes, penalty, and interest, to issue certificates of delinquency which bear interest from the date of issuance until redeemed, at the rate of 12 per cent., and have the same force and effect as a judgment or execution against the property.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass or vest by dower, curtesy, will, or by statutes or inheritance of this or any other state, or by deed, grant, bargain,

sale, or gift, or as an advancement or division of his or her estate, made in contemplation of the death of the grantor or bargainor, or intended to take effect in possession or enjoyment after the death of the grantor, bargainor, or donor to any person or persons, or to any body or bodies, politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled, in possession or expectation, to any property or income thereof, is subject to a tax at the rate hereinafter specified, to be paid to the treasurer of the state for the use of the state, and all heirs, legatees, and devisees, administrators, executors, and trustees and any such grantee under a conveyance, and any such donee under a gift made during the grantor's or donor's life, shall be respectively liable for any and all such taxes, with interest thereon, until the same shall have been paid, as hereinafter provided.

Rates of tax on all estates range from 1 per cent. on amount over exemption to \$25,000 to 10 per cent. on amount over exemption over \$1,000,000.

Property passing to father, mother, grandfather, grandmother, husband, wife, child, or any lineal descendant at rates ranging from 1 per cent. on amount over \$10,000 to \$25,000 to 10 per cent. on amount over \$10,000 over \$1,000,000. In addition to the above rates of tax an additional tax is imposed upon the following individuals: Brother, sister, uncle, aunt, niece, nephew, and lineal descendants of same at rates ranging from 1 per cent. on amount over \$1,000 to \$2,000 to 15 per cent. on amount over \$1,000 over \$50,000. All others at rates ranging from 2 per cent. on amount up to \$500 to 25 per cent. on amount over \$50,000.

Property for benevolent, charitable, or educational purposes within state, is entirely exempt.

All property of nonresidents within state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

State Treasurer, Inheritance Tax Department, Salem, Oregon.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. Discount of 5 per cent. is allowed if paid within 8 months. Thereafter interest at 8 per cent. is charged, which may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and franchise taxes noted below.

(b) Organization taxes

Fees to Corporation Commission:

Filing and recording articles of incorporation, on authorized capital; not over \$5,000, \$10; \$5,000 to \$10,000, \$15; \$10,000 to \$25,000, \$20; \$25,000 to \$50,000, \$25; \$50,000 to \$100,000, \$35; \$100,000 to \$250,000, \$45; \$250,000 to \$500,000, \$60; \$500,000 to \$1,000,000, \$75; over \$1,000,000, \$75 for each \$1,000,000 or fraction thereof.

Annual license tax for portion of year remaining up to July 1st next succeeding. For rates see "Annual license tax" below.

Fee to county clerk:

Filing and recording articles of incorporation about \$5. Certified copy of articles of incorporation (if desired), about \$5.

(c) Annual franchise taxes

An annual license tax on the authorized capital is imposed at the following rates:

| | |
|---------------------------------|-------|
| \$5,000 or less..... | \$ 10 |
| \$5,000 to \$10,000..... | 15 |
| \$10,000 to \$25,000..... | 20 |
| \$25,000 to \$50,000..... | 30 |
| \$50,000 to \$100,000..... | 50 |
| \$100,000 to \$250,000..... | 70 |
| \$250,000 to \$500,000..... | 100 |
| \$500,000 to \$1,000,000..... | 125 |
| \$1,000,000 to \$2,000,000..... | 175 |
| Over \$2,000,000..... | 200 |

Mining companies, whose annual output is less than \$1,000, pay a license fee of \$10, regardless of capitalization.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance, license, and franchise taxes.

(b) Entrance fees

Upon presentation of the declaration certificates aforesaid to the Secretary of State, the person or persons presenting the same shall therewith pay to said Secretary the sum of \$50 for filing and recording the same, together with the annual license fee due for the succeeding fraction of the fiscal year.

When corporations have shares without par value, such corporations pay the declaration fee of \$50.

(c) Annual license tax

Every foreign corporation, joint-stock company, or association, now doing business in this state, or that may hereafter do business in this state, except fire, marine, fire and marine, life, accident, life and accident, plate glass, and steam boiler insurance companies, and casualty and surety companies, shall between July 1 and August 15 of each year, pay in advance to the Corporation Department of the state an annual license fee of \$200.

PENNSYLVANIA

(Revised to May 15, 1922)

1. General features of tax system

Pennsylvania places the burden of taxation for state purposes almost wholly on corporations and insurance companies, limited partnerships, and joint-stock associations. Mortgages, bonds, and certain other classes of personal property, however, pay a state tax, but three-fourths of this tax is returned to the counties to relieve the burden of local taxation. Corporations are taxed by the state, except on their real estate, which is taxed locally. Local taxation falls principally upon the real estate of individuals; also on horses and cattle, occupations, licenses, and certain corporate real estate, as that of manufacturing companies, but not that of railroads and other quasi public corporations, which are exempt from local taxation upon property essential to the exercise of their franchise privileges. There is a state inheritance tax on both collateral and direct inheritances. There is also an established system of business taxes and licenses, and special state taxes are levied on writs, wills, deeds, and certain emoluments of public office. Capital stock of manufacturing corporations, invested in and actually and exclusively employed in manufacturing within the state of Pennsylvania, is exempt from taxation. There is a tax on corporate loans, which is paid by the corporation and collected by it from the holders of the loan. A tax is imposed on gross receipts of transportation companies, telephone and telegraph companies, electric light companies, and express companies, and on gross premiums and assessments

of insurance companies. A tax is also imposed on the gross receipts of private bankers and on matured stock of building and loan associations. In counties and municipalities all offices, posts of profit, professions, trades, and occupations, as well as single freemen following no calling, are assessed along with property; but there appears to be a tendency to change these taxes into a uniform poll tax, more especially for school purposes.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Stock Transfer Tax Law, also copy of Inheritance Tax Law, may be obtained by addressing the Auditor General, Harrisburg, Pa.

3. State taxing officials

Auditor General, Harrisburg, Pennsylvania.

4. Income tax

There is no income tax in Pennsylvania.

5. General property tax

(a) Base

Property subject to this tax for state purposes is limited to certain classes of intangible personalty and vehicles for hire.

"Intangible personalty" includes all mortgages, all money owing by solvent debtors, all articles of agreement, and accounts bearing interest, all public loans, except those of the state or of the United States, all loans issued by or shares of stock in any bank, corporation, association, company, or limited partnership, including car trust securities, bonds or other evidence of indebtedness, except shares of stock in any com-

pany liable to the capital stock tax, or by legislation specially exempted from capital stock tax, all moneys loaned or invested outside the state, all other moneyed capital in the hands of individual citizens of the state, and all annuities yielding annually over \$200, except those granted by the United States.

(b) Exemptions

Bank notes and notes discounted or negotiated by any banking institutions, building and loan associations, fire companies, firemen's relief associations, secret and beneficial societies, labor unions and labor union relief associations, and all beneficial organizations paying sick or death benefits from funds received from voluntary contributions or assessments upon members of such associations, societies, or unions; also pleasure carriages, horses, mules, and carriages are exempt.

(c) Assessment

In counties containing 800,000 and not more than 1,400,000 inhabitants, as shown by the last preceding federal census, all assessments and valuations of property, both real and personal, taxable for state and county purposes, including occupations, are made by the board of assessment and revision of taxes, which appoints subordinate assessors, one for each designated district in each county. In counties of less than 800,000 inhabitants the assessment is made by the local assessors of the several townships, boroughs, and cities of the respective counties. Sworn lists are to be made by the taxpayers of the different classes of personal property subject to the state tax. False returns are punishable by a fine of \$500 and imprisonment not exceeding seven years, while 50 per cent. is added for refusal to make return. The recorder of deeds and mortgages is to keep a daily record of every mortgage or agreement given to secure the payment of money and file the same

with the board of revision of taxes (county commissioners). The prothonotary or clerk of the court of common pleas in each county is to keep records of judgments, bills, bonds, etc., entered in his office, and file the same with the board of revision. Mortgages and judgments held by nonresidents are to be certified to the proper county. Statements of these securities are in turn to be furnished the assessors and compared with returns. Unnaturalized foreign-born residents having resided one whole year within the state are subject to taxation in the same manner as citizens of the state, except that they are not taxable for any poll tax the payment of which is a prerequisite to the privilege of voting. Railroads and other transportation and transmission companies are assessed for state purposes only on such property as is not essential to operation or the exercise of their franchise. They are exempt from all local taxation on such property as is essential to operation or the exercise of their franchise. They are exempt from all local taxation on such property as is essential to operation, such as railroad tracks, rolling stock, stations, telegraph lines, etc., except railroad property in Philadelphia and Pittsburgh. The tax on capital stock exempts them from taxes on personal securities. Transportation companies are thus taxed under the general corporation taxation and pay little in the way of state or local taxes on property. They are taxed principally on capital stock, gross receipts, and domestic-held bonds, and by the bonus on charters.

(d) Rate

The rate of the personal property tax for state purposes is 4 mills on the dollar.

(e) Collection

Collection is to be made by the collectors of the several counties and cities. Counties are responsible for collection, and

settlement is to be completed with the state treasurer by the second Monday of November, or in default thereof 10 per cent. penalty is added to taxes remaining unpaid. The city and county treasurers are permitted to retain their commissions for collection. Three-fourths of the net amount of tax is to be returned by the state treasurer to the counties for their own use in payment of expenses incurred in assessment and collection.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, in the following cases:

(a) When the transfer is by will or by the intestate laws of this commonwealth, from any person dying seized or possessed of the property while a resident of the commonwealth, whether the property be situated within this commonwealth or elsewhere.

(b) When the transfer is by will or intestate laws of real property within this commonwealth, or of goods, wares, or merchandise within this commonwealth, or of shares of stock of corporations of this commonwealth, or of national banking associations located in this commonwealth, and the decedent was a nonresident of the commonwealth at the time of his death.

(c) When the transfer is of property made by a resident, or is of real property within this commonwealth, or of goods, wares, merchandise within this commonwealth, or of shares of stock of corporations of this commonwealth, or of national banking associations located in this commonwealth, made by a

nonresident, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death.

(d) When any person or corporation comes into the possession or enjoyment of property by a transfer from a resident or nonresident decedent, when such resident decedent's property consists of real property within this commonwealth, or of shares of stock of corporations of this commonwealth, or of national banking associations located in this commonwealth, or of an estate in expectancy of any kind or character which is contingent or defeasibly transferred by an instrument taking effect after the passage of this act, or of any property transferred pursuant to a power of appointment contained in any instrument taking effect after the passage of this act.

Property passing to father, mother, husband, wife, children, lineal descendants born in lawful wedlock, legally adopted children, children of a former husband or wife, or wife or widow of son, property passing from the mother of an illegitimate child, or from any person to whom the mother is a lineal descendant, to such child, his wife, or widow, and passing from an illegitimate child to his mother, at the rate of 2 per cent.

Under the statutes of the state the widow may claim a \$500 exemption. This exemption claim is independent of the tax laws, but, if claimed and allowed, is exempt from inheritance taxes. If there is no widow, but there are children forming part of the decedent's family, the children may likewise claim \$500 exemption. Whether or not this is also exempt from inheritance taxes is not settled.

Any other person or persons, bodies corporate or politic, at the rate of 10 per cent., except as to decedents dying prior to May 4, 1921, when the rate is 5 per cent.

Estates in buildings, grounds, books, curios, etc., for sole use of the public by way of free exhibition within state, are entirely exempt. All real property, goods, wares, or merchandise, within commonwealth, or shares of stock of domestic corporations or national banks within state, belonging to nonresidents, taxable at same rate as property of residents.

(b) Official in charge of administration and collection

Auditor General, Harrisburg, Pa.

(c) When inheritance taxes are due—Discount and penalties

Due at time property is valued. Discount of 5 per cent. is allowed if paid within 3 months. If not paid within 12 months, interest at rate of 12 per cent. is thereafter added; but the rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and capital stock taxes.

(b) Organization tax

Fees to State Treasurer:

A bonus of one-third of 1 per cent. upon the amount of the capital stock which said company is authorized to have and a like bonus on any subsequent authorized increase thereof.

Fees to Secretary of State:

\$30 at the time of filing the certificate of incorporation for issue of letters patent.

Fees to recorder of deeds:

In counties having a population of more than 800,000 and less than 1,500,000, the minimum fee for recording charters of not more than four legal cap typewritten pages is \$3, and

50 cents for each additional page or fractional part thereof; in counties having a population of not less than 190,000 and not more than 700,000, one cent for each seven words, minimum fee \$2; and in other counties, one cent for each eight words.

Shares of stock without nominal or par value for the purpose of taxation, shall be considered the equivalent of a share having a nominal or par value of \$100.

(c) Capital stock tax

Payable to State Treasurer, annually: A tax at the rate of 5 mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special, and preferred.

This tax is a tax upon the property, franchises, assets, and earning capacity; capital stock, representing tangible property permanently located out of the state, is not taxed.

Capital stock invested in patents or United States bonds is not taxed.

Banks, trust companies, building and loan associations, railroads, and pipe line, telephone, telegraph, express, insurance, etc., companies, are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual capital stock taxes.

(b) Entrance fees

Fee to Secretary of the Commonwealth for filing statement and power of attorney, \$10.

From and after the passage of this act all corporations, limited partnerships, or joint-stock associations, except foreign insurance companies, chartered or created by or under the laws of any other state or of the United States, or of any foreign country, whose principal office or chief place of business is located in this commonwealth, or which have any part of their capital actually employed wholly within this state, in addition to complying with the laws now in force as to such corporation, limited partnership, or joint-stock association, shall pay to the State Treasurer, for the use of the commonwealth, a bonus of one-third of 1 per centum upon the amount of their capital actually employed or to be employed wholly within the state of Pennsylvania, and a like bonus upon each subsequent increase of capital so employed.

All scrip, bonds, certificates, and evidences of indebtedness issued, and all scrip, bonds, certificates, and evidences of indebtedness assumed, or on which interest shall be paid, by any and every private corporation, incorporated or created under the laws of this commonwealth or the laws of any other state or of the United States, and doing business in this commonwealth, are hereby made taxable in the year one thousand nine hundred and nineteen, and annually thereafter, for state purposes, at the rate of four mills on each dollar of the nominal value thereof: Provided, further, that corporations, limited partnerships, and joint-stock associations, liable to tax on capital stock for state purposes, shall not be required to pay any further tax under this section on the mortgages, bonds, and other securities owned by them in their own right; but corporations, limited partnerships, and joint-stock associations, holding such securities as trustees, executors, administrators, guardians, or in any other manner, shall be liable for the tax

imposed by this section upon all securities so held by them, as in the case of individuals.

Hereafter it shall be the duty of the treasurer of each private corporation, incorporated by or under the laws of this commonwealth, or the laws of any other state, or of the United States, and doing business in this commonwealth, upon the payment of any interest on any scrip, bond, certificate, or evidence of indebtedness, issued by said corporation to residents of this commonwealth and held by them, to assess the tax imposed and provided for state purposes upon the nominal value of each and every said evidence of debt, and to report on oath annually, on or before the last day of February for the calendar year next preceding, to the Auditor General the amount of indebtedness of the corporation owned by residents of this commonwealth, as nearly as the same can be ascertained. For every failure to assess and pay said tax and make report as aforesaid, the Auditor General shall add 10 per centum as a penalty to the amount of the tax; upon payment of said tax by a corporation, the scrip, bonds, certificates, or other evidences of indebtedness issued by it shall be exempt from all other taxation in the hands of the holders of the same.

(c) Annual capital stock tax

Annual tax on capital stock "at the rate of five mills upon each dollar of the actual value of its whole capital stock" employed wholly within the state.

(d) Taxes against owner of stock in foreign corporations

A tax is assessed against the owner of stock of foreign corporations, if the owner is a resident of Pennsylvania, unless the foreign corporation issuing the stock is liable for a capital stock tax in Pennsylvania, or through some exemption provid-

ed by statute is relieved from payment, as in the case of a manufacturing corporation.

11. Taxation of trusts and beneficiaries

The tax on personal property held by trustees is imposed upon the trustees. Trust funds, not held for a particular person, but for charitable or religious purposes, are not taxable. Bonds, mortgages, etc., held by resident trustees for the benefit of nonresident beneficiaries, are taxable in Pennsylvania.

12. Stamp taxes on stock transfers

The Stock Transfer Tax Law imposes a tax on all sales, or agreements to sell, or memoranda of sales, of stock, and upon any and all deliveries or transfers of shares or certificates of stock, in any domestic or foreign corporation, copartnership association, or joint-stock company.

The tax is 2 cents on each \$100 of the face value or fraction thereof, except in the case of non-par value shares, in which instance the tax is at the rate of 2 cents for each and every share. The tax is paid by procuring and affixing to the transferred certificate stamps sold by the state for the particular purpose.

Stamps for payment of this tax are procurable from agents of the Auditor General, which have been designated as follows: Colonial Trust Company, Pittsburgh; Empire Trust Company, 120 Broadway, New York City; First National Bank, Altoona; First National Bank, Erie; First National Bank, Harrisburg; First National Bank, Johnstown; First National Bank, York; Lackawanna Trust Company, Scranton; Lancaster Trust Company, Lancaster; Land Title & Trust Company, Philadelphia; Mellon National Bank, Pittsburgh; Miners' Bank of Wilkes-Barre; Northern Central Trust

Company, Williamsport; Pennsylvania Trust Company, Reading; Philadelphia National Bank, Philadelphia; Oil City Trust Company, Oil City.

This law has been in effect since January, 1916. Administration of the law is under the supervision of the Auditor General, Harrisburg, Pa., from whom pamphlet copies of the law and rules and regulations relating thereto may be secured upon request.

13. Corporate loan tax

A tax of four mills of the nominal value is imposed against holders resident in Pennsylvania upon "all scrip, bonds, certificates, and evidences of indebtedness" issued, assumed, or on which interest is paid by a private corporation organized in Pennsylvania, or foreign corporation "doing business" in the state. Sec. 17 of the Act of 1913, as amended by Act of July 15, 1919 (Pa. St. 1920, § 20420). The treasurer of such a corporation is required to make a report to the Auditor General, on or before the last day of February, of residents of Pennsylvania to whom such evidences of indebtedness were issued or held during the preceding calendar year, and is also required to deduct four mills on every dollar of interest paid to such residents, and turn the same over to the Auditor General within sixty days after settlement. Act of June 30, 1885, as amended by Act of June 16, 1919, and by Act of July 21, 1919; P. L. 1067 (Pa. St. 1920, § 20434). A county court has held the part of this law requiring collection of the tax by a nonresident treasurer of a foreign corporation on interest paid outside the state to be unconstitutional. *Commonwealth v. American Ice Co.*, 10 Pennsylvania Corporation Reporter, 289 (1921).

RHODE ISLAND

(Revised to June 1, 1922)

1. General features of tax system

Rhode Island depends, for its state revenue, on the direct state tax on cities and towns, the tax on "corporate excess," the tax on savings and participation accounts, the gross earnings tax on public service corporations, and estate and inheritance taxes. The state also realizes substantial revenues from automobile registration fees, oyster ground leases, fees from insurance companies, fees for corporation charters, franchise taxes on domestic corporations, and various departmental receipts. The state also participates in certain other fees, licenses, fines, etc. There is a general property tax levied by the several municipalities, each as a separate taxing jurisdiction, for local purposes. There is a local poll tax of \$1, or such sum as with other taxes shall amount to \$1, for school purposes. The poll tax has been extended to women and aliens.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Tax Act of 1912, as amended, containing the taxes imposed on corporations, may be obtained by addressing the Board of Tax Commissioners, State House, Providence, R. I.

3. State taxing officials

Board of Tax Commissioners, Providence, Rhode Island.

4. Income tax

There is no income tax in Rhode Island.

5. General property tax

(a) Base

All real property in the state, all tangible personal property located in the state, whether belonging to residents or nonresidents, and all intangible personal property belonging to the inhabitants thereof, is liable to taxation, unless otherwise especially provided.

"Real property," for the purposes of taxation, includes all lands and buildings, buildings on leased land, the leases whereof are written and recorded, the main wheels, steam engines, dynamos, boilers, and shafts, whether upright or horizontal, drums, pulleys, and wheels attached to any real estate for operating machinery, and all steam pipes, gas and water pipes, ammonia pipes, air pipes, gas fixtures, electric fixtures, and water fixtures attached to and all kettles set and used in any manufacturing establishment, when owned by the owners of the real estate to which they are attached.

"Personal property," for the purposes of taxation, includes all goods, chattels, debts due from solvent persons, money, and effects, wherever they may be, all ships or vessels, at home or abroad, all stocks and securities, shares in any bank or banking association, in any turnpike, bridge, or other corporation, within or without the state, except such as are specially exempt.

Tangible personal property is partially defined to include the fixtures enumerated above, under "real property," when not owned in such a manner as to bring them under the definition of real estate, also all picking, carding, spooling, drawing, spinning, and reeling frames, dressing and warping machines, looms, tools, and machines of all sorts propelled by steam, water, electric, or other power in any factory, machine shop, print works, manufacturing or other establishment of any kind, and all live stock and farming tools on farms, all fixtures, tools,

machinery, stock in livery stables, live stock, farming tools, goods, wares, merchandise, and other stock in trade including stock in the business of manufacturing or of the mechanic arts, and all other tangible personal property situated or being in any town, in or upon any store, mill, dockyard, piling ground, place for the sale of property, shop, office, mine, quarry, farm, place of storage, manufactory, warehouse, or dwelling house. The purpose of this definition is to define the situs of such property, which is to be in the town or city in which such tangible personal property is located.

(b) Exemptions

(1) Property belonging to the state and to the United States (town and city property is not altogether exempt, and, as a matter of fact, has been included in state, but not in local, valuations). Property for purposes such as educational, religious, charitable, burial, library, and hospital.

(2) Bonds and other securities issued and exempted from taxation by the government of the United States or of the state of Rhode Island.

(3) Shares of stock held by residents in national banking associations located without the state, the shares of which are taxed in the states where such national banking associations are located.

(4) Bonds and other securities of corporations liable to a tax on "corporate excess" and gross earnings and of corporations whose property is operated in the state by any corporation liable to a tax on gross earnings.

(c) Assessment

The State Board of Tax Commissioners has general charge and control over the taxation of the "corporate excess" of manufacturing, mercantile, and miscellaneous corporations;

over the taxation of the gross earnings of public service corporations, over the assessment of estate and inheritance taxes, and over the taxation of savings and participation accounts in national banking associations. These several taxes are paid directly to the state treasury for the use of the state.

In general, all real and tangible personal property is assessed by the town or the city assessors in the towns or cities in which it is located, and all other personal property in the hands of individuals in the town in which the owner resides.

Intangible personal property under the immediate control of a guardian takes its situs at the residence of the ward; that under the control of executors, administrators, or trustees at the residence of the person to whom the income is to be paid. But, if such ward or other person live outside the state, then such property takes its situs at the residence of the guardian, executor, administrator, or trustee.

Intangible personal property of a copartnership is taxed to the copartnership in the town in which it carries on its business. If the partners have places of business in two or more towns, the intangible property is equitably apportioned between the several towns in proportion to the tangible personal property in each town in which said business is carried on, any deduction for debts due from the partnership being made in each town in the ratio of the tax in such town. Intangible property of corporations liable to the state tax on "corporate excess" is not taxable locally.

Actual indebtedness may be deducted from money and credits liable to taxation.

Residents are not assessed on real estate or tangible personal property located in another state, but are taxable upon intangible property at their place of domicile.

There is a uniform date—June 15th, annually at 12 o'clock

noon—for the assessment of local taxes by the 39 cities and towns.

All property liable to taxation is to be assessed at its full and fair cash value by the assessors. Every person, corporation, or association is required to deliver to the assessor a sworn list of the property owned or under his control, specifying the value, which value is not, however, binding upon the assessor. Whoever neglects to bring in a sworn list has no remedy, if overassessed.

All property is required to be listed in separate columns by the assessors, as land, buildings, and other improvements, tangible personal property, and intangible personal property, and distinguishing those who give in an account from those who do not, and the tax is apportioned accordingly.

Real estate liable to taxation, and which has been omitted from assessment or erroneously or illegally assessed in any year, may be reassessed during any of the following six years to the person or persons who were the owner or owners or trustee or trustees at the time of such omission or erroneous or illegal assessment.

The shares of state banks, trust companies, and national banking associations (other than savings banks) are assessed to the owners at their place of domicile by the municipalities where the owners reside.¹

Oysters in beds leased from the state are declared by statute to be the personal property of the lessee, and are assessable as such by the municipality where such beds are located.

(d) Rate

There is a fixed rate of 9 cents on each \$100 of the ratable property of the several towns and cities, which is to be assess-

¹ See (b) Exemptions.

ed annually, collected, and paid by them to the state treasurer. Money on hand, money at interest or on deposit, other than that which is taxable to a bank, savings bank, or trust company, and the fair cash value of debts, whether or not secured by mortgage or pledge, due to the person, copartnership, or corporation to be taxed (all of the foregoing are included to such an amount as the value of such money and such debts shall exceed the amount such person, copartnership, or corporation is indebted to others, including in such indebtedness to others any debts secured by a mortgage or pledge given by such person, copartnership, or corporation), government, state, and municipal bonds and securities, not exempt from taxation by the laws of the United States or of the state, the stocks, bonds, and securities of all corporations carrying on business for profit in the state, which are not specifically exempted from taxation by the laws of the state, the stocks, bonds, and securities of all corporations which do not carry on business for profit in the state, and all other intangible personal property shall be taxed at the uniform rate of 40 cents for each \$100 of assessed valuation. Real estate and tangible personal property are assessed at the local rate, fixed by each municipality from year to year, with a limitation of \$2.50 on each \$100.

(e) Collection

All general property taxes, state and local, are collected by the town and city collectors. The taxes for the state are to be paid by the several towns, one-half before June 15th and one-half before December 15th. The towns and their officers are liable to the state for the tax. Execution may be levied on the property of the town or inhabitants thereof. Taxes assessed on either personal or real estate are a lien on the real

estate in the town. The collector may distrain property. Taxes on "corporate excess," on the gross earnings of public service corporations, on savings and participation accounts, and on estates and inheritances, are collected directly by the state treasurer and the proceeds are entirely state revenues.

7. Inheritance taxes

(a) General scope and rates

A tax shall be and is hereby imposed upon any transfer by a resident of this state of any real property within the state, or any tangible or intangible personal property, or interest therein or income therefrom, and by a nonresident of this state, of any real property within the state, or any interest therein, to any person or persons, in trust or otherwise, as a tax upon the right to receive, in the following cases:

(1) When the transfer is under a will or by the statutes of descent and distribution of this state.

(2) When the transfer is made by deed, grant, bargain, sale, or gift, without valuable and adequate consideration, and in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Such tax shall be imposed when any such person becomes beneficially entitled, in possession or expectancy, to any property, or interest therein, or the income therefrom by any such transfer, whether made before or after the passage of this act.

(3) Whenever any person shall exercise a power of appointment, derived from any disposition of property made whether before or after the passage of this act, such appointment, when made, shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee

by will, and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, and shall take effect at the time of such omission or failure.

(4) Whenever any person during his life shall appoint a trustee naming himself or others as beneficiaries, and providing for the administration of said trust after his death, or providing for a termination of such trust and a distribution of the trust estate, or any part thereof, at his death, a transfer taxable under the provisions of this act shall be deemed to take place upon the death of the creator of said trust.

(5) Dower and curtesy in property located within the state shall be deemed to be interests in real property subject to the tax imposed by this section.

Property or any beneficial interest therein passing to residents or real property within the state passing to nonresidents, is taxed, at the rate of one-half of 1 per cent. on amounts over \$5,000. In addition to the above tax, there is an individual tax as follows: Property passing to grandparent, parent, husband, wife, child, brother, sister, nephew, niece, wife or widow of a son, husband or widower of a daughter, adopted child, mutually acknowledged child or lineal descendant, at rates ranging from one-half of 1 per cent. on amount over exemption to \$50,000 to 3 per cent. on amount over exemption over \$1,000,000. The exemptions are: Widow and minor child, \$25,000; others, if two or more, only such proportion of \$25,000 as the value of a person's share bears to whole value of

property. Any others, at rates ranging from 5 per cent. on amount over \$1,000 to \$50,000 to 8 per cent. on amount over \$1,000 over \$1,000,000.

Property passing to corporations, associations, or institutions located in the state exempt by statute from tax, or, property located outside of state, which if located within would be exempt, or to any city or town for public purposes, shall be exempt. All real property of nonresidents within the state is subject to tax at one-half of 1 per cent.

(b) Official in charge of administration and collection

Board of Tax Commissioners, Providence, R. I.

(c) When inheritance taxes are due—Discount and penalties

Due within six months from qualification by representatives of the estate, or six months from death when no appointment is made. If paid within six months, discount of 4 per cent. is allowed. If tax is not paid within nine months, interest at 8 per cent. per annum is added from time tax accrues, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

In general corporations are subject to the local taxes upon real estate and tangible personal property, described above, and to organization, intangible property, and franchise taxes, noted below.

(b) Organization taxes

Fee payable to State Treasurer:

Fifty cents for each \$1,000 or fraction thereof, of the total amount of its authorized capital stock having par value, and,

in the case of stock having no par value, five cents for each share, but in no case less than \$25.

Fees payable to Secretary of State:

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| For filing articles of incorporation..... | \$2.00 |
| For filing name and address of treasurer..... | 2.00 |
| For filing statement by president or vice president and treasurer, and a majority of directors (if the corporation has directors) before issue of any stock..... | 2.00 |
| Reports to be filed in February of each year..... | 2.00 |

In case of the organization of a corporation under special act of the state Legislature, the petitioners for the same shall pay into the general treasury one-tenth of 1 per cent. upon the total stock having par value, and for stock having no par value 10 cents for each share, but in no case less than \$100.

(c) Tax on intangible property

An annual tax upon the value of that portion of the intangible property termed "corporate excess" at the rate of 40 cents for each \$100 is imposed.

Corporations chartered in the state which pay a tax on "corporate excess" less than \$2.50 on each \$10,000 of authorized capital are subject to an annual franchise tax in an amount sufficient to make up this minimum. For the purpose of computing this franchise or minimum tax non par value authorized capital stock is deemed to have a par value of \$100 per share.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and to intangible property or "corporate excess" taxes.

(b) Entrance fees

Every foreign corporation, as a condition precedent to carrying on business in the state, or to enforce in the courts of the state any contract made within the state, shall pay to the general treasurer \$25.

Fees payable to Secretary of State:

| | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| For filing certified copy of charter, the name of the corporation, place where principal office in state is to be located, character of business, amount of authorized capital, and the amount issued and outstanding, and the amount of each class of stock, names and addresses of officers and directors, and dates when their times of office expire, date appointed for next annual meeting, a written power appointing some competent person resident in the state as its attorney with authority to accept service of process, including the process of garnishment, etc..... | \$5.00 |
| For filing further power of attorney..... | 2.00 |
| For filing annual report..... | 2.00 |

(c) Tax on intangible property

Forty cents on each \$100 of its "corporate excess" attributable to Rhode Island, computed in such proportion as is equitably applicable.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations is taxed at the rate of 40 cents for each \$100 of assessed valuation against owners resident of Rhode Island.

11. Taxation of trusts and beneficiaries

The situs of intangible property held in trust is at the residence of the beneficiary; but, when beneficiaries live outside

the state, the tax is levied at the residence of the trustee. For rule as to nonresident trustees, see Sears, Trust Estates as Business Companies (2d Ed.) p. 231.

12. Stamp taxes on stock issues and transfers

None.

SOUTH CAROLINA

(Revised to May 15, 1922)

1. General features of tax system

South Carolina draws its state, county, and municipal revenues mainly from the general property tax. There is a graduated income tax, a special license tax on insurance companies, and an annual license tax on all corporations, and certain other special business taxes and licenses. The state collects poll taxes, which go to the schools. The state receives revenue from fines assessed for violation of rules and regulations of state crop pest commission. The Legislature in 1922 enacted an Inheritance Tax Law.

2. Where pamphlet copies of tax laws, etc., may be secured

Copy of Inheritance Tax Law may be secured from the South Carolina Tax Commission.

3. State taxing officials

South Carolina Tax Commission, Columbia, South Carolina.

4. Income tax

(a) In general

An act in effect March 13, 1922, imposes a tax on net income arising from operations or sources in South Carolina, in accordance with returns similar to those to the federal government. The federal Act of November 23, 1921, and all acts amendatory thereof, and all rules of the Department of Internal Revenue, are adopted so far as applicable.

(b) Who must make returns

All persons, firms, partnerships, corporations, guardians, trustees, administrators, executors, and receivers who are now or shall hereafter be required to make income tax returns to the federal government are required to file a verified copy thereof with the State Tax Commission at the same time that the federal return is required to be filed, except that for 1922 an affidavit as to amount in the federal return is provided for.

(c) Rate

The rate is $33\frac{1}{3}$ per cent. of the amount required to be paid to the United States government.

(d) Exemptions

Same as federal, subject to specific provisions (section 12) that compensation on account of injuries, disability, bonuses, pensions, insurance, etc., of military, naval forces, marines, etc., are exempt.

(e) Net income

Is same as under Federal law, except that it is confined to "income upon net earnings accrued and received from operations or other sources in this state."

(f) Deductions

Same as under Federal law.

(g) Filing returns, paying taxes, etc.

Returns are filed as stated in (b) above. Taxes are payable at time of filing of returns.

Penalties

If tax is not paid within sixty days after due, and no extension has been granted by the Tax Commission, levy may be

made upon any and all property of the taxpayer. Any person making a false return is guilty of perjury.

5. General property tax

(a) Base

All real and personal property in the state and the personal property of residents of the state which may be kept or used temporarily out of the state, with the intention of bringing the same into the state, or which has been sent out of the state for sale and not yet sold; all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise of parties resident in the state are subject to taxation.

"Real property" includes, not only land, city, town, and village lots, but also all structures and other things thereon contained or attached thereto which pass to the vendee by the conveyance of land or lots.

"Personal property," for purposes of taxation, includes all things, other than real estate, which have any pecuniary value, including moneys, credits, investments in bonds, stocks, joint-stock companies, etc.

"Credits" are held to be the remainder due to a party after deducting all debts and demands against him. But no deductions are to be made for insurance premium notes to mutual insurance companies, subscriptions to capital stock of any joint-stock company, taxes assessed on charitable subscriptions, or for contingent liabilities. All property used in the operation of railroads is classed as personal property.

(b) Exemptions

(1) Public property; property for religious, educational, benevolent, cemetery, etc., purposes.

(2) All bonds and stocks of the state of South Carolina; all municipal bonds in this state, which by the terms of the act un-

der which they are or may be issued, are or may be exempted from taxation. An act of 1912, page 682, provides that all bonds hereafter issued by any city, county, or school district within this state shall be exempt from all taxes. (Note.—This act was not returned by the Governor within three days after it was presented to him, the General Assembly being in session.)

(3) All shares of the capital stock of any company which is required to list its capital and property for taxation in the state.

(c) Assessment

There is but one assessment for state, county, and municipal purposes. Real estate is listed every fourth year, between January 1 and February 20, except a certain portion of Florence county, where returns are to be made between March 1 and March 15. In towns of over 50,000 population, returns may be made between January 1 and February 20 in any intermediate year, upon order of the special board of equalization of such cities. Changes on account of sales, transfers, or improvements are entered annually. Personal property is assessed annually as of January 1, except that agricultural products in the hands of the producer on August 1 preceding are included. All property is to be valued at its true money value, which, for real estate, is the price obtained at court sales for partition and for personalty is the usual price at administrator's sales. The county auditor attends at a convenient place in each township for the purpose of receiving returns or listing of property for taxation. Thereafter the county auditor lays before the township boards of assessors such returns and lists. In addition, the boards are required to seek for and discover all property, both real and personal, in their respective tax districts, not previously returned for taxation by the owner, or

not listed for taxation by the county auditor, and are required to list the same for taxation. Thereafter it is their further duty to impose an assessment and value all property in their respective districts for taxation. And they shall have the right to increase or lower the valuation of any property, real or personal, as fixed by the county auditor, or as returned by any person. Section 302, Civil Code 1912, provides that every person engaged in making, fabricating, or changing things into new form for use, or in refining, rectifying, or combining different materials for use, shall be held to be a manufacturer, and shall make a statement of the average value of all articles purchased, received, or otherwise held for the purpose of being used by him in his business, at any time during the year preceding the 1st day of January of the year in which the return is made, to ascertain which he shall set down the value on hand on the 1st day of January of the preceding year, or other time of commencing business during the year, add thereto all purchases, when made, at cost, ascertain the average value on hand for the month, deduct the average amount of sales for the month, at cost, and the remainder shall be the average on hand for that month; and in like manner ascertain the average value for each month, down to the 1st day of January of the year in which the return is to be made, add together such monthly values, and divide the aggregate by the number of months he has been in business during the preceding year, as aforesaid. Shares of stock in state and national banks are assessed where the bank is located at their "true value in money," which is construed to mean all surplus, capital, and every kind of personal property owned by the bank. The real estate is taxed to the bank and deducted from the value of the shares. Unincorporated banks and bankers are assessed on the average monthly assets for the

year. Pawnbrokers are assessed on the average value of property pawned to them during the year.

All personal property used in connection with mines and mining claims and all other land not actually mined, connected with mines and mining claims, shall be assessed as all other personal and real property. Land actually mined shall not be assessed, but in lieu thereof the gross proceeds alone of such mines and mining claims shall be assessed and taxed; such gross proceeds to be ascertained and determined by cash market value of material mined. Corporations are, in general, assessed as individuals. Where the property of domestic corporations is taxed in the state the shares of such corporations are not assessed.

(d) Rate

The Constitution provides an annual levy of three mills upon all taxable property within the various counties of the state for support of the schools.

(e) Collection

Taxes are collected by the county treasurer, who is paid a fixed salary for his services. The time of payment is from the 15th day of October to the 31st day of December. The penalty for nonpayment of taxes is 1 per cent. for January, 1 per cent. for February, and 5 per cent. after the 1st of March. Delinquent taxes are collected by distress or warrant to be executed after March 15. All personal property is liable to distress and sale, and real property on which taxes are delinquent may be seized and sold. All taxes are a lien upon the property taxed, which attaches at the beginning of the fiscal year and expires in 10 years.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon the transfer of any property, real, personal or mixed, or of any interest therein or income therefrom, in trust or otherwise, to persons, institutions, or corporations, not hereinafter exempted, for the support of the state government in the following cases:

(a) When the transfer is by will or by the intestate laws of this state from any person dying, seized or possessed of the property, while a resident of the state.

(b) When the transfer is by will or intestate laws of property within the state, and the decedent was a nonresident of the state at the time of his death.

(c) When the transfer is of property made by a resident, or by a nonresident when such nonresident's property is within this state, by deed, grant, bargain, sale, or gift, made in contemplation of death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Transfers of property by gift or deed, between parties related by blood or marriage, made and completed within five years prior to death, and without an adequate, valuable consideration, shall be considered made in contemplation of death.

(d) Whenever any person, institution, or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment, when made, shall be deemed a taxable transfer under the provisions of this act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, and whenever any person or corporation possessing such power of appointment

so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

(e) Whenever property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositories in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons, the right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer taxable under the provisions of this act in the same manner as though the whole property to which such transfer relates was owned by said parties as tenants in common and had been bequeathed to the surviving joint tenant or joint tenants, person or persons, by such deceased joint tenant or joint depositor by will.

Whenever the beneficial interest to any property or income shall pass to or for the use of any husband, wife, minor child, minor grandchild, adult child, children, adult grandchildren, father, or mother, at rates of taxation ranging from 1 per cent. on amount over exemption to \$20,000 to 6 per cent. on amount over exemption over \$300,000. The exemptions are: Husband or wife, \$10,000 each; minor child or minor grandchild, \$7,500 each; others enumerated above, \$5,000.

Lineal ancestors, lineal descendants, brothers, sisters, uncles, aunts, nieces, nephews, wife or widow of son, or husband of

daughter at rates ranging from 2 per cent. on amount over \$500 to \$20,000 to 7 per cent. on amount over \$300,000. In all other cases at rates ranging from 4 per cent. on amount over \$200 to \$20,000 to 14 per cent. on amount over \$300,000.

Property for educational religious, cemetery, charitable, or public purposes, entirely exempt.

All property of nonresidents within state subject to same rate of taxation as property of residents.

The term "child" or "children" shall be so construed to include a child or children legally adopted in conformity with the laws of this or any other state.

(b) Officials in charge of administration and collection

South Carolina Tax Commission, Columbia, South Carolina.

(c) When inheritance taxes are due—Discount and penalties

Due at expiration of one year after date of qualification by executor, administrator, etc. No discount. If not paid when due, interest at 7 per cent. per annum for first year and 10 per cent. for subsequent years is added, but payment of tax may be suspended by court.

8. License taxes

An act in effect February 23, 1922, imposes a license tax of two cents per gallon on gasoline. Return must be filed on 20th of each month to the Tax Commission.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and franchise taxes.

(b) Organization taxes

Fees payable to Secretary of State, when charter is issued or renewed:

One mill upon each dollar of the authorized capital stock up to and including \$100,000; the sum of one-half mill upon each dollar of capital stock over \$100,000 to \$1,000,000; one-fourth mill upon each dollar of capital stock over \$1,000,000.

The fees charged by the Secretary of State for the issuing of a charter to cotton holding and storage associations, organized within the state, shall be \$25; no commissions shall be charged on any increase of the capital stock of such association. For recording declaration, \$2.50. For recording return, \$2.50.

(c) Annual franchise tax

Payable to State Treasurer on or before the 1st day of April in each year, an annual license fee of one mill upon each dollar paid of the capital stock of the corporation; said license fee not to be less than \$5 in any case.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and franchise taxes.

(b) Entrance fees

To the Secretary of State, for filing charter and by-laws, \$10; for filing appointment of agent, \$5.

(c) Annual franchise tax

Upon the filing of the report required of foreign corporations in section 362, the Tax Commission shall, from the

facts thus reported, and any other fact coming to his knowledge, determine the value of the property of such corporation used within this state by them in the conduct of their business, and shall file a statement of the value so determined, with the license tax payable thereon, and shall charge and collect from such company, in addition to the initial fees provided for in the Code of Laws of South Carolina of 1912, and acts amendatory thereto, an annual license fee of one-half of one mill upon each dollar of the value of the property of such corporation used within this state in the conduct of its business.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in foreign corporations whose property is taxed in South Carolina are not taxed in the hands of holders in South Carolina, but shares in other foreign corporations are thus taxable.

SOUTH DAKOTA

(Revised to May 26, 1922)

1. General features of property tax

South Dakota depends principally upon the general property tax for state, county and municipal revenues. An amendment to the Constitution in 1918 authorizes classified property tax. Several tax laws were passed in 1919, providing for tax on money and credits at low rate; a privilege tax on real estate mortgages and contracts recorded in the office of register of deeds; a per bushel tax on grain received in or handled by elevators and warehouses. The school poll tax is mandatory in all counties. The road poll tax is mandatory, except in cities and incorporated towns, and exemptions provided in certain instances. Most of the business and license taxes are left to cities, incorporated towns, and counties.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of South Dakota, 1922, containing the taxes imposed on corporations, may be obtained by addressing the Secretary of State, Pierre, South Dakota. Copy of the South Dakota Tax Laws may be secured from the Tax Commission, Pierre, South Dakota. Copy of the Inheritance Tax Law may be secured from Inheritance Tax Department, Pierre, South Dakota.

3. State taxing officials

State Tax Commission, Pierre, South Dakota, consisting of three members, one of whom must be an attorney authorized

to practice in the courts, who is designated as commissioner in charge of inheritance taxes.

4. Income tax

There is no income tax in South Dakota.

5. General property tax

(a) Base

All real and personal property in the state, and all personal property of persons residing therein, and the property of corporations and of all banks and banking companies, except such as is expressly exempted, is subject to taxation.

"Real property," for the purpose of taxation, is construed to include the land itself and all buildings, structures, and improvements, trees, fixtures, and all rights and privileges, and all mines, minerals, and quarries thereto belonging. Trees planted under the Timber Culture Act of Congress are not to be considered as "improvements" on the land, nor are artesian wells to be considered in the assessment.

"Personal property" is construed to include all goods, chattels, moneys, credits, and effects, wheresoever they may be; all ships, boats, and vessels belonging to inhabitants of the state, whether at home or abroad, and all capital invested therein; all moneys at interest, invested within or without the state, due to the person to be taxed, and all other debts due such person; all public stocks and securities; the capital stock of all insurance companies organized under the laws of this state; all stock in corporations, except in national banks, out of the state, owned by inhabitants of the state; all the shares of stock in any bank, state or national; all personal estate of moneyed corporations, whether the owners reside within or without the state; and all improvements on lands the

title of which is still in the United States, or in any railroad company or corporation whose property is not subject to the same modes and rules of taxation as other property; also the income of any annuity, unless the capital of such annuity be taxed within the state. Gas and water mains, and pipes of gas and water companies, and the track, road, or bridges of street railroad, turnpike, and bridge companies are held to be personal property.

(b) Exemptions

Public property; grounds, buildings, and other property of agricultural and horticultural societies; property used exclusively for educational, charitable, benevolent, or religious purposes; one lot in a cemetery for family use; \$500 for household furniture and provisions; \$500 for farm tools and machinery; \$500 for tools of a mechanic; \$500 for dwelling house occupied by owner; \$5,000 for property of person during service in World War.

(c) Assessment

In general, there is one assessment roll for state, county, and local taxes; one for real estate and personal property, except money and credits, one for money and credits. Each organized civil township, each city, and the unorganized portion of each county not fully organized into civil townships, and each unorganized county constitutes an assessor's district. All real and personal property is assessed annually, with reference to the 1st day of May. The assessment work is conducted during the months of May and June. The assessor must actually view the property when practicable, and determine the true and full value in money, listing separately the land and improvements. Every person, under oath, must list his personal property; but the assessor determines the value, upon view.

The penalty for refusal to make the required statements is an addition of 50 per cent. on the value returned by the assessor; for failing or refusing to deliver to the assessor, when called upon, a list of taxable property, or for temporarily converting taxable property into property exempt from taxation, for the purpose of fraudulently escaping taxation thereon, the penalty is not less than \$50 nor more than \$5,000; and for refusal to be sworn or to answer interrogatories there is a penalty of from \$10 to \$500, to which may be added six months' imprisonment. The statute expressly directs that the assessor is not to adopt a lower or different standard of value, because the same is to serve as a basis of taxation, nor is he to adopt as a criterion of value the price at which the property would sell at auction or forced sale, but is to value all property at such a price as the same is fairly worth in money.

All property subject to taxation, situated in any of the unorganized counties of the state which have been attached to an organized county for judicial or other purposes, is to be listed for taxation by the assessor of such county. Taxes in unorganized counties are levied for state, judicial, school and highway purposes.

The capital stock and franchises of corporations and associations are listed where the principal place of business is located.

Stockholders of every bank, state and national, are to be taxed on their shares in the town where the bank is located. The real estate is taxed to the bank. The basis for valuation of the shares is the amount of capital stock, surplus and undivided profits, less the legal investment in real estate in this state. The bank is liable for the taxes on the stock of the individual stockholders and is obliged to withhold so much of any dividend or dividends as may be necessary to pay any taxes levied on such stock.

(d) Rate

The State Tax Commission determines such rate for state tax to be levied for the current year as is necessary for defraying the ordinary estimated expenses of the state for such year, for paying any deficiency in the ordinary expenses of the preceding year or years, for payment of the annual interest, and for providing a sinking fund for the public debt of the state. The rate for ordinary state purposes is not to exceed 2 mills on the dollar in any one year, but the Legislature may levy a deficiency tax.

(e) Collection

In general, the county treasurer collects all the taxes for state, county, and municipal purposes, anything in the charter of any city or town to the contrary notwithstanding. No demand for taxes is necessary to fix liability therefor, but it is the duty of every person to attend at the office of the treasurer having charge of collection and to pay his taxes. Taxes are due on the 1st day of January, and if not paid before April 1st become delinquent on that date and draw 1 per cent. per month as a penalty. Treasurer, if he is justly apprehensive of the loss of any personal tax, may enforce its collection at any time. Taxes on real property are a perpetual lien from January 1, and those on personal property are a lien thereon after the same date.

Taxes may be paid in two installments. If any person pays one-half on or before March 31st after the year which such taxes have been assessed, the balance will not become delinquent until November 1st following, on which day and on the 1st day of each month thereafter, until paid, 1 per cent. of the amount remaining unpaid shall be added thereto and collected by the county treasurer. When tax books or records of any

county shall become destroyed, taxes shall not become delinquent until July 1st following.

The State Tax Commission assesses railroad, express, telephone, telegraph, sleeping car, and private car line companies, as provided by special laws. The county treasurer collects taxes on all these classes of property, except private car line companies, from which collections are made by the State Treasurer, based upon average rate of taxes for all general purposes for previous year, all of which is retained by state. The taxes on railroad, express, telegraph, and sleeping car property are apportioned to the various counties they operate in on a mileage basis, and collected and distributed to various taxing districts the same as other taxes. Telephone property outside the corporate limits of any city or town is taxed at an average rate the same as that borne by other property, and this class of property within corporate limits of cities and towns is taxed and apportioned on same basis as other general property.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer of property, real, personal, or mixed, or any interest therein or income therefrom, in trust or otherwise, to any person, association, or corporation, except a county, township, or municipal corporation, within the state, for strictly county, township, or municipal purposes, in the following cases:

1. When the transfer is by will or by the intestate laws of this state, from any person dying possessed of the property while a resident of the state.
2. When a transfer is by will or intestate law, of property within the state or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death.

3. When the transfer is of property made by a resident or by a nonresident, when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death.

Such tax shall be imposed when any such person or corporation becomes beneficially entitled in possession or expectancy to any property or the income thereof, by any such transfer, whether made before or after the taking effect of this Code. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the taking effect of this Code, such appointment, when made, shall be deemed a transfer taxable under the provisions of this chapter in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised to such donee by will; and whenever any person or corporation possessing such power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this chapter shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person or corporation thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

When the property or any beneficial interest therein passes by any such transfer to: (a) Wife or lineal issue, the rate of tax ranges from 1 per cent. on amount over \$10,000 to \$15,000 to 4 per cent. on amount over \$100,000. (b) Husband,

lineal ancestor, legally adopted child, mutually acknowledged child, or lineal issue of adopted or mutually acknowledged child, at rates ranging from 2 per cent. on amount over exemption to \$15,000 to 8 per cent. on amount over exemption over \$100,000. The exemptions are \$10,000 to each of the beneficiaries enumerated in class (b), except lineal ancestor, who receives an exemption of \$3,000. (c) Brother, sister, descendant of brother or sister, wife of son, widow of son, or husband of daughter, at rates ranging from 3 per cent. on amount over \$500 to \$15,000 to 12 per cent. on amount over \$100,000. (d) Brother or sister of father or mother, or descendants thereof, at rates ranging from 4 per cent. on amount over \$200 to \$15,000 to 16 per cent. on amount over \$100,000. (e) All others, at rates ranging from 5 per cent. on amount over \$100 to \$15,000 to 20 per cent. over \$100,000.

Public hospital, academy, college, university, seminary, church, or charitable institutions within state are taxed at rates ranging from 5 per cent. on amount over \$2,500 to \$15,000 to 20 per cent. on amount over \$2,500 over \$100,000.

Property for county, township, or municipal purposes within the state is entirely exempt. All property of nonresidents within the state is taxable at above rates.

(b) Official in charge of administration and collection

Inheritance Tax Department, Tax Commission, Pierre, S. D.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. No discount. If not paid within one year, interest at 7 per cent. is added from death, but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to an organization tax. There are no annual taxes.

(b) Organization taxes

Fees payable to Secretary of State:

For examining, filing, and recording articles of incorporation, and issuing charter for same:

| | |
|------------------------------------------------------|----------|
| Corporations organized without capital stock..... | \$ 10.00 |
| Authorized capital stock of \$25,000 or less..... | 20.00 |
| Over \$25,000, and not exceeding \$100,000..... | 30.00 |
| Over \$100,000, and not exceeding \$500,000..... | 40.00 |
| Over \$500,000, and not exceeding \$1,000,000..... | 60.00 |
| Over \$1,000,000, and not exceeding \$1,500,000..... | 80.00 |
| Over \$1,500,000, and not exceeding \$2,000,000..... | 100.00 |
| Over \$2,000,000, and not exceeding \$2,500,000..... | 120.00 |
| Over \$2,500,000, and not exceeding \$3,000,000..... | 140.00 |
| Over \$3,000,000, and not exceeding \$3,500,000..... | 160.00 |
| Over \$3,500,000, and not exceeding \$4,000,000..... | 180.00 |
| Over \$4,000,000, and not exceeding \$4,500,000..... | 200.00 |
| Over \$4,500,000, and not exceeding \$5,000,000..... | 220.00 |
| Over \$5,000,000..... | 300.00 |
| Church, fraternal and benevolent Society..... | 3.00 |

For certified copies, 25 cents per folio of 100 words and \$1 for certificate.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance fees. There are no annual taxes.

(b) Entrance fees

Such corporation shall pay into the office of the Secretary of State, upon filing its articles of association or incorporation, for certificate of authority and appointment of agent, a fee of \$25.50, and \$1 for every \$1,000 of its capital stock exceeding \$25,000, employed or to be employed in this state, as shown by its sworn statements.

(c) Annual license taxes

None.

(d) Taxes against owner of stock in foreign corporations

Shares of stock in foreign corporations whose property is taxed in South Dakota are not taxed in hands of holders, but shares in other foreign corporations are taxable to holders.

TENNESSEE

(Revised to March 17, 1922)

1. General features of tax system

Tennessee draws its principal revenue from the general property tax and from business taxes, licenses, and fees. The distinguishing feature of the system is a carefully worked-out system of privilege taxes upon the exercise of various occupations, which supplements the general property tax. There are special corporation taxes, similar in nature to the privilege taxes on individuals, and state poll and inheritance taxes, as well as specific taxes on land transfers and on litigation.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Collateral and Direct Inheritance Tax Laws may be obtained by addressing the State Comptroller, Nashville, Tennessee.

3. State taxing officials

State Tax Commissioner, Nashville, Tennessee.

4. Income tax

There is no income tax in Tennessee.

5. General property tax

(a) Base

All property, real, personal, and mixed, is subject to taxation for state, county, and municipal purposes, except such as is declared exempt.

"Real property" includes all minerals and timber interests, and all other interests of whatever kind, whether for life or a term of years, in real estate, including the interest which the lessee may have in the improvements erected upon lands where the fee is exempt to the owner. Such interests are assessed to the owner thereof separately from other interests in such real estate.

"Personal property" is described as including: Household goods, implements and vehicles; live stock; water craft; income from United States bonds and from other stocks and bonds not taxed ad valorem; all bonds, except United States bonds; all shares of stock, except when the corporate property or capital stock is assessed in lieu thereof; notes, duebills, choses in action, accounts, mortgages, or other evidences of indebtedness; money on hand or on deposit; and all other personalty.

(b) Exemptions

(1) Public property; property for religious, charitable, scientific, educational, cemetery, etc., purposes.

(2) Personal property of the value of \$1,000 in the hands of each resident taxpayer, and all property exempt by charter or by statute.

(3) Direct products of the soil in the hands of the producer and vendee; manufactured articles in hands of manufacturer.

(c) Assessment

The assessment for state, county, and municipal purposes is made by the county assessors. Personal property, privileges, and polls are to be assessed annually, real estate every two years, and both at their "actual cash value," which is defined to mean the price at which the property would sell at a fair voluntary sale. The assessment refers to January 10.

The assessor is required to visit all realty, see personally each taxpayer, and take his statement of all property, real and personal, without regard to any exemption. The taxpayer must make oath to the amount of his property, but not to the value, which is computed by the assessor. The penalty for refusal to make the schedule or list or to take the oath is a fine of \$10 to \$50, upon conviction of the misdemeanor. Suits for collection cannot be brought on notes and choses in action not listed.

Changes to the extent of \$200 in the value of real estate are to be noted annually by the assessor, as well as any improvements thereon.

The amount of income of United States bonds and of all other stocks and bonds not taxed ad valorem is to be assessed as personalty. All bonds, except United States bonds, and all shares of stock, except when the corporate property or capital stock is assessed in lieu thereof are to be listed. All personal property, which is a part of the capital invested in the business of a merchant, factor, or manufacturer, is not to be assessed separately as personalty, but as part of the capital.

Manufacturers are assessed on the raw materials in their hands purchased on the open market from others than the producer. Raw materials in the hands of a manufacturer, if they represent produce of the soil in the hands of the producer or the immediate vendee of the producer are exempt. Articles in process of manufacture and finished articles in the hands of the manufacturer are to be deducted in assessing property or capital stock. The United States Supreme Court in *Darnell v. Memphis*, 208 U. S. 113, 28 Sup. Ct. 247, 52 L. Ed. 413, held that the benefit of the exemption of manufactured articles cannot be confined to articles manufactured from the produce of the soil of Tennessee, but must likewise be extended to articles manufactured from the produce of other states, thus ren-

dering nugatory provision in the state Constitution limiting the benefit of the exemption to articles manufactured from produce of the soil of Tennessee.

Merchants are assessed on the average capital invested in the business during the year, which is found by dividing the sum of the highest and the lowest amounts of stock by two.

Of stocks of merchandise sold at auction or on commission, one-third of the aggregate amount of the annual sales is to be returned for taxation.

Property held by executors and administrators shall be assessed in the county, district, or ward in which the decedent resided at time of death until such shall have been distributed; but, if deceased lived in another state, then the property shall be assessed where the personal representative resides.

Personal property held by trustees and guardians of minors, married women, and lunatics shall be assessed to each such trustee or guardian in the county, ward, or district where such dependent resides, if a resident of the state; if a nonresident, then in the county, ward, or civil district in which the guardian or trustee resides. Guardian having control thereof must render an annual statement.

Corporations are assessed on their real estate and tangible personalty as individuals.

Foreign corporations are assessed only on the actual cash value of real estate and tangible personalty owned in Tennessee. The Supreme Court of Tennessee held in *Southern Exp. Co. v. Patterson*, 122 Tenn. 279, 123 S. W. 353, that a defect in the General Assessment Act renders impossible the assessment of intangible property of foreign corporations doing business in Tennessee.

Bank stock is assessed in the name of the shareholders at its cash value, less a proportionate share of the realty and tan-

gible personalty taxed to the bank. This is in lieu of the tax on capital stock of banks. (Recent opinion of Supreme Court: Held corporation liable for tax on stock, and not the stockholder.)

(d) Rate

Tax rates are determined by statute passed by the Legislature, providing a sliding scale of rates, which are automatically reduced or increased, depending upon the total aggregate of the assessment in the state. Present rates on each \$100 worth of property are as follows: General purposes, 17 cents; state highways, 5 cents; State University, 5 cents; elementary schools, 8 cents; support of state and individual fairs, 1 cent.

(e) Collection

With the exception of the taxes on certain cities and the state tax assessed against railroad, telegraph, and telephone companies, all ad valorem taxes are collected by the county trustee. Taxes are payable December 1st, except municipal taxes of cities having a population of 100,000 or over and of those authorized to collect their own taxes. Taxes are a lien on the property assessed from the 10th of January, and are delinquent and bear interest after the 1st of March, and in addition there is a penalty of 1 per cent. a month. They may be collected by distress and sale.

Taxes on the stock of banks and loan and investment companies are to be collected from the president of the corporation.

The inheritance tax is collected by the county court clerk of each county.

If any property escapes assessment, it is the duty of the trustee to assess the same and report the taxes collected as

"picked-up" taxes. The trustee cannot receipt for the property tax, if the poll tax is unpaid.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed for the general uses and purposes of the state, upon every transfer of property, real, personal or mixed, or any interest therein or income therefrom, in trust or otherwise, to persons or corporations, subject to the exceptions and limitations hereinafter prescribed, in the following cases, to wit:

(1) When the transfer is by will or by the intestate or other laws of this state, from any person dying possessed of property while a resident of the state.

(2) When the transfer is by will or by intestate or other laws of property within the state, or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death, except the following property, to wit: (a) Money on hand or on deposit; (b) shares of stock, bonds, or notes held as collateral to secure any bona fide indebtedness owed by such nonresident to any person, firm, or corporation in this state; (c) shares of stock, bonds, notes, or other evidences of debt, where the imposition of an inheritance tax thereon in this state would result in the payment of a second, or double, inheritance tax upon such property, by reason of the fact that it is subject to the payment of such a tax in the state where the nonresident decedent lived at the time of his death.

(3) When the proceeds of any life insurance policy or contract upon the death of the insured, who was a citizen of this state at the time of his death, by the terms thereof, by operation of law, or by the will of the insured, inure to the benefit of any person or persons, other than the direct descendants or

ascendants, or the widow or husband of the insured, in the nature of a gift, bequest, or devise, not based upon a valuable consideration passing from said beneficiaries to the insured in his lifetime.

(4) When the transfer of property is by deed, grant, bargain, sale, or gift, or by life insurance policy, or contract, and is made by a resident of this state, or when the same is made by a nonresident of this state and the property transferred is situated within this state or is within the state's jurisdiction, and in either case, when the transfer is made in the nature of a final disposition or distribution of such property in contemplation of death of the transferor, to take effect in possession or enjoyment at or after the date of such death, and every such transfer made within two years next preceding the date of such death, without consideration equal in money or money's worth to the full value of the property transferred, shall be construed to have been made in contemplation of death, within the meaning of this act, and the words "contemplation of death" shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his last will and testament; it being the intention to include within the provisions of this act all transfers made in lieu of or for the purpose of avoiding transfers by last will and testament or by the intestate laws.

(5) Whenever, except in cases of partnerships formed to operate any kind of business undertaking, property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or other institutions or depositories in the joint names of two or more persons, and payable to the survivor or survivors of such persons, upon the death of one or more of them, and upon such death the survivor, or survivors is or are entitled to the immediate ownership or posses-

sion and enjoyment of such property, the vesting of title or ownership or possession and enjoyment of such property in such survivor or survivors at such death or deaths shall be deemed a transfer taxable under the provisions of this act. The amount on which such taxes shall be collected is the full value of the property so transferred, less such part thereof as may be proved by the survivor or survivors to have originally belonged to him or them, and never to have belonged to the decedent: Provided, that real estate held by the entireties by husband and wife shall not be subject to taxation under the provisions of this act, if such real estate vests in the survivor on the death of either.

(6) Whenever any person, trustee, or corporation has the power of making disposition of property under an appointment by will, deed, or other instrument heretofore executed, or is vested with such power by such will, deed, or other instrument hereafter executed, a transfer of such property shall be deemed to take place, for the purposes of taxation under the provisions of this act, at the time such power of appointment, under the provisions of the will, deed, or other instrument, is to be exercised, whether the power is then exercised or not.

(7) Whenever a decedent appoints or names one or more executors or trustees, and makes a bequest, or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devise, or residuary legacy exceeds what would be a reasonable compensation for their services, such excess shall be liable to said tax.

(8) Where any property shall, after the passage of this act, be transferred subject to any charge, estate, or interest, determinable by the death of any person, or at any period ascertain-

able only by reference to death, the increase accruing to any person or corporation upon the extinction or determination of such charge, estate, or interest shall be deemed a transfer of property taxable under the provisions of this act, in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interests is derived.

The tax on all transfers shall be at the following rates:

(1) Where the person or persons entitled thereto are the husband, wife, direct ascendants, direct descendants, or adopted child, ranging from 1 per cent. on amount over exemption to \$25,000 to 5 per cent. on amount over exemption over \$500,000. The exemption is \$10,000 on entire estate, except as to a stepchild, who is entitled to exemption of \$1,000.

(2) All others at rates ranging from 5 per cent. on amount over \$1,000 to 10 per cent. on amount over \$1,000 over \$500,000.

Property passing for municipal, religious, educational, hospital, or charitable purposes, is entirely exempt.

Property of nonresidents within the state is subject to above tax except money on hand or deposit; shares of stock, bonds, or notes held as collateral; shares of stock, bonds, notes, or other evidence of debt subject to inheritance tax in state of nonresident decedent.

Only one exemption is allowed to a class upon the entire transfer; the tax being computed upon the estate as a whole, without reference to each individual share.

(b) Official in charge of administration and collection
Comptroller, Nashville, Tenn.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer; 5 per cent. discount is allowed, if paid within 6 months. If not paid within 12 months, interest at 6 per cent. per annum is added from date tax was due.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

Filing and recording charter, \$10. Organization tax one-tenth of 1 per cent. on authorized capital. Certifying copy of charter (if desired), \$10.

Fees to register of deeds:

Registering charter, \$3.

(c) Franchise taxes

An annual franchise tax on authorized capital is as follows:

| | |
|---------------------------------------------------------|---------|
| Up to and including \$25,000..... | \$ 5.00 |
| Up to and including \$50,000..... | 10.00 |
| Up to and including \$100,000..... | 20.00 |
| Up to and including \$250,000..... | 30.00 |
| From \$250,000 up to, but not including, \$500,000.... | 50.00 |
| From \$500,000 up to, but not including, \$1,000,000... | 100.00 |
| \$1,000,000 or over..... | 150.00 |

Express, railroad, telegraph, telephone, and insurance corporations are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, being assessed only on the actual cash value of real estate and tangible personalty owned by such corporations and located within the state of Tennessee. See *Patterson v. Express Co.*, 122 Tenn. 279. They are also subject to entrance and franchise taxes, described below.

(b) Entrance fees

Fee to Secretary of State: For filing certified copy of charter, \$20.

The coming into this state of any corporation, association, or joint-stock company chartered or incorporated under the laws of any other state or country, for the purpose of doing business here, is hereby declared and made a privilege.

Every corporation, association, or joint-stock company chartered or incorporated under the laws of any state or country other than this state, and having a capital stock, shall pay into the office of Secretary of State, for the use of the state, upon filing a copy of its charter or articles of incorporation, a tax upon its authorized capital stock, as follows, to wit:

| | |
|---------------------------------------------------------|-------|
| Companies of \$50,000 and less..... | \$ 50 |
| Companies of over \$50,000 and less than \$100,000..... | 100 |
| Companies of \$100,000 and less than \$200,000..... | 150 |
| Companies of \$200,000 and less than \$300,000..... | 200 |
| Companies of \$300,000 and less than \$400,000..... | 250 |
| Companies of \$400,000 and less than \$500,000..... | 300 |
| Companies of \$500,000 and less than \$750,000..... | 400 |
| Companies of \$750,000 and less than \$1,000,000..... | 500 |
| Companies of \$1,000,000 and less than \$2,000,000..... | 750 |
| Companies of \$2,000,000 and less than \$5,000,000..... | 1,000 |

Companies of \$5,000,000 authorized capital stock and over shall pay \$1,500: Provided that, if any company chartered under the laws of another state desires to locate its principal office and do all of its business in and from Tennessee and have all or its main property holdings in Tennessee, it shall then pay a privilege tax of one-tenth of 1 per centum on the authorized capital stock, just as domestic corporations are now required to do: Provided, also, that insurance companies shall be credited by the amount of fees paid to the Insurance Commissioner upon entering the state to do business.

(c) Annual franchise tax

Annual franchise tax on authorized capital as follows:

| | |
|-----------------------------------------------------------|------|
| Up to and including \$25,000..... | \$ 5 |
| Up to and including \$50,000..... | 10 |
| Up to and including \$100,000..... | 20 |
| Up to and including \$250,000..... | 30 |
| From \$250,000 up to, but not including, \$500,000..... | 50 |
| From \$500,000 up to, but not including, \$1,000,000..... | 100 |
| \$1,000,000 or over..... | 150 |

Every corporation failing or refusing to file said statement and pay said fee as hereinbefore provided shall, in addition to the fee, pay a penalty of \$1 for each day's delinquency.

(d) Taxes against owner of stock in foreign corporations

No tax whatever is assessed against the owner of stock in foreign corporations.

11. Taxation of trusts and beneficiaries

Trust estates are assessable against the trustee in his fiduciary capacity, being assessed as a single estate, and being en-

titled to one exemption, regardless of the number of beneficiaries. No additional assessment is made against the interests of the beneficiaries. Tax returns by fiduciaries must show names of persons for whose use and benefit such property is held, and assessment on assessment rolls must show separate interest of each beneficiary.

TEXAS

(Revised to May 15, 1922)

1. General features of tax system

Texas depends primarily upon the general property tax for state, county, and local revenues. There is an elaborate system of "occupation" taxes on various lines of business, incorporation and franchise taxes on corporations, and some special taxes on the gross receipts of transportation and insurance companies. These taxes are in addition to the general property tax. There are also state, county and municipal poll taxes. An inheritance tax law was enacted in 1907.

2. Where pamphlet copies of tax laws may be secured

Pamphlet copies of the Filing Fees and Franchise Taxes of Domestic and Foreign Corporations may be obtained by addressing the Secretary of State, Austin, Texas.

3. State taxing officials

State Tax Commissioner, Austin, Texas.

4. Income tax

There is no income tax in Texas.

5. General property taxes

(a) Base

All property, real, personal, or mixed, except such as is expressly exempted, is subject to taxation.

"Real property," for purposes of taxation, is construed to

include the land itself, and all buildings, structures, and improvements or other fixtures thereon, all rights and privileges appertaining thereto, and all mines, minerals, quarries, and fossils in and under the same; also standing timber.

"Personal property" includes all goods, chattels, and effects, and all moneys, credits, bonds, and other evidences of debt owned by citizens of the state, whether the same be in or out of the state; all ships, boats, and vessels belonging to inhabitants of the state, if registered in the state, whether at home or abroad, and all capital invested therein; all moneys at interest within or without the state due to the person to be taxed above what he pays interest for, and all other debts due to such person over and above his indebtedness; all public stock and securities; all stock in corporations (except national banks) out of the state owned by residents; all personal estate of moneyed corporations, whether the owners thereof are residents or nonresidents; the income of any annuity, unless the capital of such annuity be taxed within the state; all shares in any national bank; all improvements made by persons on lands held by them, the title to which is still vested in the state or in any railroad company, or which have been exempted from taxation for the benefit of any corporation whose property is not subject to the same mode and rule of taxation as other property.

(b) Exemptions

Public property; property for religious, educational, cemetery, charitable, public library, etc., purposes.

(c) Assessment

In general, there is but one assessment, made annually by the county assessors, which forms the basis of state and county taxes. All property is assessed as of January 1, at its true

and full value, which is the price that could be obtained for it at a private sale where the property is situated. The taxpayer renders to the assessor the list and value of his property, and the assessor is required to have the owner swear that the inventory contains a true, full, and complete list of all his taxable property.

The valuation as rendered in the list of the taxpayer is to a certain extent binding upon the assessor, and if he is not satisfied, he must refer his estimate to the board of equalization of the county and notify the taxpayer.

Credits are assessed only for the balance above indebtedness, but no deduction is allowed on account of any bond, note, or obligation of any kind given to any mutual insurance company, or subscription to capital stock or benevolence.

Property owned by residents and located in unorganized counties is to be assessed by the assessor of the county to which it is attached for judicial purposes. Lands of nonresidents lying in unorganized counties are to be assessed by the comptroller of public accounts. The board of equalization for this property consists of the Governor, the Attorney General, and the Secretary of State.

The property of corporations is assessed, the same as other property, in accordance with the constitutional requirement. There are in addition, however, various special corporation taxes. But shares of capital stock of corporations which are taxed on their capital and property need not be listed.

National banks are assessed on their real estate, and their shares are assessed to the individual holders thereof. All the property, both real and personal, of a state bank, is subject to taxation. Bank officers must make a sworn statement of shareholders and their holdings, and shares must also be listed by the shareholder. Shares are taxed, however, only for the dif-

ference between the actual cash value and the proportionate amount per share at which the real estate of the bank is assessed. Taxes upon the shares assessed against the shareholder, if not paid by the shareholder, become a lien upon the property of the banking corporation. Deposits are deducted from assets.

(d) Rate

The rate for general purposes and for the support of the free public schools is determined each year by the State Tax Board, and must be such as will raise the amounts appropriated.

(e) Collection

In general, taxes for the state and county are collected by the county tax collector. Taxes are due on the 1st of October, and the tax collector or his deputies attend at appointed places to receive payment. Taxes are delinquent on the last day of December, and forced collections are to begin thereafter by levy and sale of personal property; but, if no such property is found, a list of delinquent lands and lots is to be made up between April 1 and 15, the sale of which is advertised and enforced by suit. All property is thus liable for taxes and may be levied on and sold, and taxes on real property are a lien thereon, which is superior to assignment, attachment, inheritance, or devise.

If taxes are not paid by January 31, a penalty of 10 per cent. on the entire amount of such taxes accrues, to be paid, when collected, proportionately to state and county.

Taxes on lands of nonresidents in unorganized counties are to be paid at the office of the comptroller of public accounts, who may enforce collection.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of this state, real or personal, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of this state or not, which shall pass absolutely or in trust by will, or by the laws of descent of this or any other state, or by deed, grant, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor or donor, shall, upon passing to or for the use of any person, except the father, mother, husband, wife, or direct lineal descendants of the testator, intestate, grantor, or donor, or any public corporation, or charitable, educational, or religious organization within this state, when such bequest, gift, or devise is to be used for charitable, educational, or religious purposes within this state, be subject to a tax for the benefit of the state, as follows:

If passing to or for the use of any father, mother, husband, wife, or lineal descendants, entirely exempt from tax. Lineal ascendant, brother, sister, or lineal descendant of brother or sister, the tax is at rate ranging from 2 per cent. on amount over \$2,000 to \$10,000 to 5 per cent. on amount over \$2,000 over \$500,000.

Uncle, aunt, or lineal descendant of uncle or aunt, at rates ranging from 3 per cent. on amount over \$1,000 to \$10,000 to 8 per cent. on amount over \$1,000 over \$500,000.

All others, at rates ranging from 4 per cent. on amount over \$500 to \$10,000 to 12 per cent. on amount over \$500 over \$500,000.

Property for charitable, religious, or educational purposes within state, entirely exempt.

All property of nonresidents within state, subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection
State Comptroller, Austin, Texas.

(c) When inheritance taxes are due—Discount and penalties

Due within one year from time persons come into possession of the estate. No discount. A penalty of 2 per cent. per month is added, if not paid within said year.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above and to organization and franchise taxes noted below.

(b) Organization taxes

Fees to Secretary of State:

Filing charter, on authorized capital of \$10,000 or less, \$50. Each additional \$10,000 or fraction thereof, \$10. Maximum fee, \$2,500. In certain cases, where more than one purpose is allowed, a separate franchise tax must be paid for each purpose. Railroad, magnetic telegraph, and express companies pay an organization tax of \$200 on filing charter, provided the authorized capital is \$100,000 or less, and 50 cents for each \$1,000 in excess. Franchise tax must be paid for balance of year up to May 1 next succeeding. For rate, see Franchise Taxes below. Certifying copy of charter, 15 cents per folio and \$1 for certificate—about \$2.

(c) Franchise taxes

A franchise tax is imposed at the rate of 50 cents on each \$1,000 or fraction thereof, of the authorized capital stock, unless the total amount of capital stock issued and outstanding, plus the surplus and undivided profits, exceeds the authorized

capital, in which case the tax is levied on the issued capital stock, plus the surplus and undivided profits. When the authorized capital exceeds \$1,000,000, the rate is 25 cents per \$1,000 in excess. In no case is the tax less than \$10 for the full year. In the event of increase in the authorized capital stock, a supplemental franchise tax shall be paid thereon for the remainder of the year, down to and including the 30th day of April next thereafter.

Insurance, express, telegraph, telephone, gas, electric light, and power companies, pipe line companies, car companies, sleeping car companies, etc., are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes on property in Texas, as above, and to entrance and franchise taxes.

(b) Entrance fees

"Each and every foreign corporation that files with the Secretary of State a certified copy of its articles of incorporation and amendments thereto and obtains a permit to do business in this state * * * shall pay to the Secretary of State as filing fees the following: \$50 for the first \$10,000 of its capital stock actually subscribed, and \$10 for each additional \$10,000 or fractional part thereof: Provided, that in no event shall such fee exceed the sum of \$2,500: * * * Provided, that the fees required to be paid by any foreign corporation for a permit to engage in the manufacture, sale, rental, lease or operation of all kinds of cars, or to engage in conducting, operating or managing any telegraph lines in this state, shall in no event exceed the sum of \$2,500."

(c) Franchise taxes

Except as herein provided, each and every foreign corporation authorized, or that may hereafter be authorized, to do business in this state, shall, on or before the 1st day of May of each year, pay in advance to the Secretary of State a franchise tax for the year following, which shall be computed as follows: The authorized capital stock, surplus, and undivided profits, if any, of such corporation, the total gross receipts of such corporation from all its business, and the total gross receipts from all of its business done in Texas for the calendar year immediately preceding, shall be ascertained by the Secretary of State from sworn reports of the officers of such corporation, or by such other method as may satisfy the Secretary of State, and the capital stock of such corporation, upon which the franchise tax herein provided is based, shall be that proportion of the authorized capital stock, plus the surplus and undivided profits, if any, of such corporation, as the gross receipts from the Texas business of such corporation done within the state of Texas bears to the total gross receipts of such corporation from its entire business, and the capital stock assignable to the Texas business, and upon which the fees hereinafter provided shall be calculated and based, being thus ascertained, the franchise tax which is hereby provided shall be computed as follows: One dollar on each \$1,000 or fractional part thereof up to and including \$100,000; 50 cents on each \$1,000 or fractional part thereof in excess of \$100,000 up to and including \$1,000,000, and 25 cents on each \$1,000 or fractional part thereof in excess of \$1,000,000: Provided, that the minimum franchise tax to be paid by any foreign corporation shall be \$25: Provided, however, that where such corporation has a surplus or undivided profits the same shall be added to the entire capital stock of such corporation, and shall be

taken and computed as a part thereof in determining the amount of such entire capital stock: Provided, that where a foreign corporation applying for a permit has theretofore done no business in Texas, the franchise tax herein provided shall not be payable until the end of one year from the date of such permit, at which time the franchise tax shall be computed upon that proportion of the authorized capital stock, plus the surplus and undivided profits, if any, of such corporation, ascertained as above required, as the gross receipts from its Texas business bears to the gross receipts of the corporation from its entire business for the same period; and the second payment of such franchise tax shall be made for the period intervening between the date of such first payment and the 1st day of May following, the proportion of authorized capital stock, plus the surplus and undivided profits, if any, of such corporation, upon which the same shall be computed, to be the same proportion that the gross receipts from the Texas business for such period bears to the gross receipts of the corporation from its entire business for the same period; and that thereafter such franchise tax shall be payable annually on the 1st day of May for the year succeeding, computed upon that portion of the authorized capital stock, plus the surplus and undivided profits, if any, of such corporation which the gross receipts from the Texas business of such corporation bears to its entire gross receipts for the calendar year preceding, as hereinabove provided.

(d) Taxes against owner of stock in foreign corporations

Shares of stock of corporations which are required to return their capital and property for taxation are not taxed to the resident holder. When the corporate property is not assessed in the state, resident stockholders are subject to general property taxation on their stock.

UTAH

(Revised to May 15, 1922)

1. General features of tax system

Utah derives its revenues from a direct tax levied against all the assessed property in the state, from fees from state officers, fines and forfeitures, and from inheritance, insurance, and special corporation taxes. Licenses are used as sources of county and municipal revenues.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of the State of Utah, containing the taxes on corporations, may be obtained by addressing the Secretary of State, Salt Lake City, Utah. Copies of the Inheritance Tax Law may be secured from the Attorney General.

3. State taxing officials

State Board of Equalization and Assessment, Salt Lake City, Utah.

4. Income tax

There is no income tax in Utah.

5. General property tax

(a) Base

All property in the state, not exempt by law, is taxed in proportion to its value. Property includes moneys, credits, bonds, stocks, franchises, and all other matters, real, personal, and

mixed, capable of private ownership; but the stocks of any company or corporation, which is taxed on the property represented by the stock, are not taxed.

"Real property" includes the possession, claim to, ownership of, or right to land; all mines, minerals, and quarries in and under land; all timber belonging to individuals or corporations and growing on the lands of the state or the United States, and all rights and privileges appertaining thereto; improvements, buildings, and fixtures on land, whether title has been acquired to said lands or not.

"Personal property" includes everything that is the subject of ownership, not included within the meaning of the terms "real estate" and "improvements."

(b) Exemptions

(1) Public property; property for religious, cemetery, public library, charitable, etc., purposes.

(2) Mortgage on both real and personal property.

(c) Assessment

There is one assessment list for state, county, and municipal purposes. The assessment is made annually by the county assessor, except that assessed by the State Board of Equalization, on the basis of sworn statements, which he may require the taxpayers to furnish, in regard to the amount and value of their property on the 1st day of January. Any person, after demand by the assessor, refusing to appear and be examined, forfeits to the county \$100 for each refusal, and loses his standing before the county commissioners to secure a reduction of his assessment. All taxable property is required to be assessed after actual inspection by the assessor at its full cash value, the amount at which the property would be taken in payment of a just debt due from a solvent debtor.

Land and improvements thereon are assessed separately.

Bank stock, state and national, is assessed where the bank is located, on the basis of a verified statement by the cashier. Real estate is assessed to the bank, and the proportionate value is deducted in the assessment of the stock. The bank pays the tax and has a lien on the shares therefor. The shares of stock of national banks located without the state, but owned by residents of the state, are not subject to taxation.

Private bankers, brokers, and foreign banks are assessed on the average balance of credits over liabilities for the 90 days preceding the verified statement of the condition of the business required.

Every person is entitled to deduct from the gross amount of credits the amount of all bona fide debts owing by him, except insurance premium notes, unpaid subscriptions to any institution or society, or to the capital stock of any corporation, and suretyship obligations.

The capital stock of corporations is to be listed and taxed where the principal office is located; but the stocks of any company or corporation which is taxed on the property represented by the stock are not taxed.

Franchises of gas and water companies must be listed and assessed in the county, city, town, or district where the principal works are located.

Bridges and ferries and their franchises, owned by persons or corporations, must be listed and assessed in the county, city, town, or district where such property, or any portion thereof, is located.

Franchises of railroads, street railroads, or car, telegraph, telephone, electric light, pipe line, power, canal, irrigating, and express companies operated in more than one county in this

state, must be assessed by the State Board of Equalization, and such franchises are apportioned as follows:

Railroads and street railroads to the county through which said railroads or street railroads operate in the proportion that the length of the main tracks, side tracks, passing tracks, switches, and tramways of such railroad or street railroad companies, respectively, in each county, bear to the total length of main tracks, passing tracks, and side tracks, switches, and tramways thereof, in the state.

Franchises of all other companies assessed by the State Board of Equalization are apportioned to each county in the proportion that the value of the property of said business in each county bears to the total property of said business in the state.

Other franchises shall be assessed in the county or city where the franchise is exercised.

Metalliferous mines are assessed at \$5 per acre, and in addition thereto at a value determined by taking the multiple of three times the net annual proceeds thereof. The net proceeds are assessed by the State Board of Equalization, and acreage is assessed by the county assessor where the property is located. The net proceeds are apportioned to the county where the property is located. All other mines and mining claims, and other valuable mineral deposits, including lands containing coal or hydrocarbons, are assessed at their full value. This is determined by a geological survey, which estimates the actual ore content, and the assessment is based on the proximity to the railroad on a tonnage basis.

Improvements, buildings, erections, structures, and machinery of mines or mining claims, which have a value independent of such mine, or supplies used in mills, reduction works, or mines, are to be assessed as other property. Net proceeds and

improvements, etc., are assessed by the State Board of Equalization.

A tax of $1\frac{1}{2}$ mills on the dollar on the value of all sheep and goats, and 1 mill on the dollar on all range horses and cattle, and 1 mill on the dollar on domestic cattle, according to the assessed valuation of the same, is levied by the board of county commissioners for the benefit of the state bounty fund, for the destruction of certain wild animals.

(d) Rate

The state board of equalization determines the rate of state tax, which, after allowing 10 per cent. of the proceeds for delinquencies and cost of collection, must be sufficient to raise the revenue required.

This rate, however, as limited by the Constitution, is never to exceed 8 mills on each dollar of valuation; whenever the taxable property in the state amounts to \$400,000,000, the rate is not to exceed 5 mills.

(e) Collection

Collection is made by the county treasurer, and notice of the amount of tax and of the time and place where payable is given by mail to the taxpayers. Taxes on personal property are a lien on the real property of the owner; those on real property, on the property assessed; and those on improvements, on the land and improvements, though assessed to others than the owners of the real estate; and the several liens attach as of the 1st day of January. Taxes fall due on the 3rd Monday of September, and become delinquent on the 30th of November. Delinquent taxes on personal property, except when real estate is liable therefor, may be collected by seizure and sale. The delinquent tax list is published on or

before the 15th of December, and the real property is sold on the 21st day of December.

The collection of taxes on personal property was modified somewhat by the 1919 Legislature. At the time of making the assessment, the assessor shall collect the taxes on all personal property, when, in his opinion, said taxes are not a lien on real property sufficient to secure the payment of the taxes: Provided that, instead of a cash payment, the assessor shall accept from any taxpayer a good and sufficient bond payable to the county in an amount 20 per cent. in excess of the tax, conditioned for the payment of the tax prior to the 30th day of November. At the time of making the assessment, or at any time before the first Monday in June following the assessment, the assessor may collect the taxes by seizure and sale of any personal property owned by the person against whom the tax is assessed, in the same manner as that provided for seizure and sale by the county treasurer.

Taxes on railroads, and street railway, depot, telegraph, and telephone companies, assessed by the State Board of Equalization, are collected in the same manner as other taxes; but for taxes on car companies the secretary of the State Board of Equalization is made collector, and remits to the State Treasurer, and to the county, city, town, school, and other taxing districts, the sums due each district. He is authorized to enforce collection after the manner of the county treasurer.

7. Inheritance taxes

(a) General scope and rates

"All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the statutes of inheritance of this or any

other state, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after the death of the grantor, vendor, or donor, to any person in trust or otherwise, and, for the purposes of this act, any transfer of a material part of any such property in the nature of a final disposition or distribution thereof, made by the decedent within three years prior to his death, except in case of a bona fide sale for a fair consideration in money or money's worth, unless shown to the contrary, shall be deemed to have been made in contemplation of death, shall be subject to the following tax, after the payment of all debts, for the use of the state: Three per cent. of its market value in excess of \$10,000, and not exceeding \$25,000, and 5 per cent. of its market value in excess of \$25,000. * * *

(b) Official in charge of administration and collection

Attorney General, Salt Lake City, Utah.

(c) When inheritance taxes are due—Discount and penalties

Due within one year from death. No discount; 8 per cent. interest is added after one year, unless time for payment has been extended.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes, described above, and to organization and franchise taxes, noted below.

(b) Organization taxes

Fees payable to Secretary of State:

For receiving and filing each original or certified copy of articles of incorporation, 25 cents on each \$1,000 of the au-

thorized capital stock of the company or corporation. For the purpose of the taxes prescribed to be paid on the filing of any certificate, or other paper, relating to corporations, and of franchise taxes prescribed to be paid by corporations to the state, but for no other purpose, such shares (i. e., stock without nominal or par value) shall be taken to be of the par value of \$100 each. For issuing each certificate of incorporation, \$5. For receiving and filing an acceptance of the provisions of the Constitution on the part of an incorporated company, and issuing certificate thereof, \$3.

Fees to county clerk:

For filing and indexing articles of incorporation, \$2.50. For recording articles of incorporation, 20 cents per folio.

(c) Franchise taxes

All domestic corporations and all foreign corporations (except insurance companies) hereafter engaging in any business in this state, before engaging in or continuing to transact business, after the 15th day of November, 1915, shall procure a certificate from the Secretary of State of this state, authorizing such corporation to engage in or to continue to transact its corporate business within this state, and each of the corporations aforesaid, not coming within the exceptions hereinbefore stated, shall pay to the Secretary of State a corporation license tax as follows: All corporations with an authorized capital stock of \$10,000 or less, \$5; with an authorized capital stock of more than \$10,000, and not to exceed \$25,000, \$10; with an authorized capital stock of more than \$25,000, and not to exceed \$50,000, \$15; with an authorized capital stock of more than \$50,000, and not to exceed \$75,000, \$20; with an authorized capital stock of more than \$75,000, and not to exceed \$100,000, \$25; with an authorized capital stock of more than

\$100,000, and not to exceed \$150,000, \$35; with an authorized capital stock of more than \$150,000, and not to exceed \$200,000, \$40; with an authorized capital stock of more than \$200,000 and not to exceed \$250,000, \$50; with an authorized capital stock of more than \$250,000, and not to exceed \$300,000, \$60; with an authorized capital stock of more than \$300,000, and not to exceed \$400,000, \$70; with an authorized capital stock of more than \$400,000, and not to exceed \$500,000, \$80; with an authorized capital stock of more than \$500,000, and not to exceed \$600,000, \$90; with an authorized capital stock of more than \$600,000, and not to exceed \$700,000, \$100; with an authorized capital stock of more than \$700,000, and not to exceed \$800,000, \$110; with an authorized capital stock of more than \$800,000, and not to exceed \$900,000, \$120; with an authorized capital stock of more than \$900,000, and not to exceed \$1,000,000, \$125; with an authorized capital stock of more than \$1,000,000, and not to exceed \$1,500,000, \$150; with an authorized capital stock of more than \$1,500,000, and not to exceed \$2,000,000, \$175; with an authorized capital stock of more than \$2,000,000, and not to exceed \$3,000,000, \$200; with an authorized capital stock of more than \$3,000,000, and not to exceed \$4,000,000, \$225; and with an authorized capital stock of more than \$4,000,000, \$250: Provided that the provisions of this section shall not apply to insurance companies, to religious, charitable, benevolent, and educational organizations, to corporations not organized for pecuniary profit, or to water, canal, or irrigation companies furnishing water for culinary and domestic purposes, exclusively to stockholders, or to lands owned exclusively by members thereof, or to water users' associations organized to comply with the rules of the United States Reclamation Service, or to any cor-

porations operated by federal control during the continuance of such control.

For the purpose of franchise taxes prescribed to be paid to the state by corporations, each share of non-par value stock shall be taken to be of the par value of \$100.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual franchise taxes.

(b) Entrance fees

Fees to county clerk:

Filing certified copy of charter, \$2.50; filing by-laws, 50 cents; filing appointment of process attorney, 50 cents; filing acceptance of Constitution, 50 cents; for certifying papers (per page), 30 cents.

Fees to Secretary of State:

Filing certified copy of charter, 25 cents on each \$1,000 of authorized capital; filing acceptance of Constitution, \$3; filing appointment of agent, \$1; issuing certificate of compliance, \$5.

(c) Annual franchise taxes

See No. 7 (c) above.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations held by residents of Utah is taxable.

11. Taxation of trusts and beneficiaries

Trust estates are assessed to the party in whose possession or control they are on the 1st day of January.

VERMONT

(Revised to May 15, 1922)

1. General features of tax system

Vermont's revenue system is a combined general property and poll tax, supplemented for state purposes by a series of special corporation taxes and an inheritance tax. The general property tax is in the main administered by the towns, and each town is held responsible in its corporate capacity for its share of state and county taxes.

The peculiar feature of the Vermont system is the "grand list." This was originally a list of polls, property, occupations, and incomes; each item being "set in the list" at an arbitrary valuation, the endeavor being made by these arbitrary values to represent the relative "faculty" or ability to pay taxes arising from each item. Eventually the endeavor was made to bring these arbitrary values into some relation to actual values. In so doing, incomes and the valuations of different occupations were dropped, and polls and property retained.

The listers of each town appraise property at its value and set the same in the grand list at 1 per cent. of the appraisal. Polls are set in the grand list at \$1 and women between 21 and 70 years of age are assessed for poll tax as well as men.

The grand list is composed of these two items. State and municipal taxes are assessed on this grand list. A direct state tax is assessed at the present time 40 cents upon the dollar of the grand list. State school and state highway taxes are annually paid by each town to the state treasurer, and are re-

distributed in a manner that is intended to relieve to some extent the tax burdens of the poorer towns. Public utility corporations, insurance companies, savings banks, and similar institutions are subject to the payment of taxes and fees to the state.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the General Corporation Laws of the State of Vermont may be obtained by addressing the Secretary of State, Montpelier.

3. State taxing officials

Commissioner of Taxes, Montpelier, Vermont.

4. Income tax

There is no income tax in Vermont.

5. General property tax

The poll tax constitutes an integral part of the general property tax, and cannot be described separately. Polls are "set in the list" at \$1 each; that is, given a valuation of \$1, as though property.

(a) Base

The base is the so-called "grand list," composed of (a) the polls of all male inhabitants of the state over 21 and under 70 years of age, except honorably discharged soldiers of the War of the Rebellion (provided they claim the exemption in writing at the time that the grand list is being made up), paupers, and members of the state militia and of fire companies, if their towns so vote, which polls are "set in the list" at the ar-

bitrary value of \$1 each; (b) 1 per cent. of the value in money on the 1st day of April in the year of their assessment of all real and personal estates, except such as are specifically exempt.

"Real property" is not specially defined for purposes of taxation; but engines and boilers, except railway and steamboat, kept or used for supplying power, electric motors, and other machinery used in manufacturing, mining rights in severance from surface ownership, buildings on leased land, and standing timber are "set in the list" as real estate, unless standing timber is owned in severance from the soil, in which event it is put in the grand list against the owner as personal property. When property is mortgaged, the mortgagor is treated as the owner until the mortgagee takes possession.

"Personal property" is not specifically defined for purposes of taxation, but perpetual or redeemable leases are "set in the list" as personal property at a sum of which the rent is 6 per cent.

(b) Exemptions

Public property; shares of stock in foreign corporations elsewhere taxed; personal estate of residents situated and taxed in another state; railroad stock; money loaned to towns, etc., at not over 4 per cent., if loaned prior to March 1, 1919, and money loaned to towns and other public units after that date, if the rate of interest does not exceed 5 per cent., is exempt; all estates for public, religious, or charitable uses, etc.—are exempt.

(c) Assessment

This is called "listing." The valuations refer strictly to April 1 in each year. Only 1 per cent. of all property is "set in the list."

Real estate is listed or appraised quadrennially, the listing being completed by the fourth Tuesday in August. Real estate of railroads not used in operating the road is listed like other real estate. The quadrennial appraisal is corrected annually for alterations only.

Each taxpayer is required to furnish the listers a sworn inventory of his property subject to taxation, but the appraisal is made by the listers. The appraisal is to be "at the just value of the property in money."

In case of a false inventory, or the want of an inventory, the taxpayer is assessed according to what the listers determine his taxable property to be, nor is such taxpayer deprived of the right to have a hearing before the board of abatement.

Shares of stock in corporations, except those taxed by the state, are to be set in the list, like other personal estate, to the owner, in the town where he resides, if he resides in the state; otherwise, in the town where the corporation has its place of business.

Standing timber, sold without the land on which it stands, is listed and taxed separately to the purchaser.

Motor or power boats valued at more than \$100 are taxed on the 1st day of April, in the town where they were last kept.

7. Inheritance taxes

(a) General scope and rates

Property, or any beneficial interest therein, passing to husband, wife, child, father, mother, grandchild, wife or widow of son, husband of daughter, adopted child, stepchild, child of such adopted or stepchild, or other lineal descendant, at rates ranging from 1 per cent. on amount over \$10,000 to \$25,000 to 5 per cent. on amount over \$250,000.

All others, at the rate of 5 per cent. Exemption of \$10,000 only applies to direct inheritance.

Property passing for religious, cemetery, charitable, or educational purposes within state, is entirely exempt.

All real property of nonresidents within the state is subject to tax at above rates. Personal property of nonresidents is not taxable.

(b) Official in charge of administration and collection

Commissioner of Taxes, Montpelier, Vt.

(c) When inheritance taxes are due—Discount and penalties

Due within two years from death. No discount. Interest at 6 per cent. is added thereafter, unless court has extended time for payment.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization and franchise taxes noted below.

(b) Organization taxes

Fee to Secretary of State:

Organization tax—On capital not exceeding \$5,000, \$10. On capital over \$5,000 to \$10,000, \$25. On capital over \$10,000 to \$50,000, \$50. On capital over \$50,000 to \$200,000, \$100. On capital over \$200,000 to \$500,000, \$200. On capital over \$500,000 to \$1,000,000, \$300. On capital over \$1,000,000 to \$2,000,000, \$500. On capital over \$2,000,000, \$200 for each additional million or fraction thereof.

Fee to Town Clerk:

Recording charter, 20 cents per folio; minimum, 50 cents.

(c) Franchise taxes

Annual franchise tax on authorized capital of \$50,000 or less, \$10; each additional \$50,000, \$5, but in no case more than \$100.

A state tax for the payment of state expenses is assessed upon the property, business, or corporate franchises of railroad, insurance, guaranty, express, telephone, telegraph, steamboat, car and transportation companies, sleeping car companies, mortgage, loan, or investment companies, etc. These corporations are not taxable on the "grand list."

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and franchise taxes.

(b) Entrance fees

The fee payable on the issue to a foreign corporation (or to unincorporated associates, organized or having their principal office in another jurisdiction) of any original certificate of authority to do business in this state shall be \$10 and upon the issue of a certificate in extension, \$5. A certificate issued to a corporation lawfully doing business in this state on the 31st day of March 1915, shall, for the sole purpose of determining the fee payable, be treated as a certificate in extension. The fee payable to the Secretary of State by the officer serving him with any process against a foreign corporation shall be \$1, which shall be taxable as costs.

A foreign corporation shall likewise, within 10 days after it receives a certificate of authority to do business in this state, file its annual license tax returns and pay the pro rata propor-

tion of the annual license tax for the unexpired portion of the then current year and taxes in arrears covering the period prior to the date of such certificate, during which such corporation did business in this state.

A foreign corporation doing business in this state on the 1st day of February in any year shall pay a license tax for the year beginning with such 1st day of February, and shall not be entitled to any refund if it ceases to do business within the year.

(c) Annual franchise taxes

Every foreign corporation doing business in this state, and every association or joint-stock company doing business in this state issuing shares of stock or dividing its corporate rights or property into shares, and every domestic corporation shall, except as hereinafter provided, pay an annual license tax to the state.

A corporation subject to the payment of the annual license tax and having capital stock of \$50,000 or less is hereby assessed an annual license tax of \$10, and for each \$50,000 or fractional part thereof of capital stock in excess of \$50,000, \$5. But such an annual license tax, except as otherwise provided in this chapter, shall not exceed \$100.

(d) Taxes against owner of stock in foreign corporations

Stock in foreign corporations owned by a resident of Vermont is taxable against him, unless the corporation is taxed for all of its stock in the state of its location; or if the individual stockholders are taxed for all the stock of the entire corporation by such state wherever the owner may reside, and this rule applies to corporations not authorized to do business in Vermont, as well as to those that are so authorized. This is a law that involves a great deal of difficulty in enforcement,

the difficulty arising chiefly in determining whether the stock is taxed by the state of its location, and also the difficulty in appraising the stock according to the rule of the Vermont statute, which makes deductions for the value of real and personal property taxed against the corporation.

11. Taxation of trusts and beneficiaries

Trust estates are taxed against the trustee.

VIRGINIA

(Revised to August 1, 1922)

1. General features of tax system

The revenue laws of Virginia were extensively revised in 1903, pursuant to the provisions of the new Constitution which went into effect July 10, 1902. Another important revision of these laws with respect to property taxation was made at the special session of the General Assembly in 1915, at which time an act for the partial segregation of the subjects of taxation was passed. Under this law real estate and tangible personal property was segregated principally to the localities, while intangible personal property, rolling stock of railroads, taxes upon insurance companies, and taxes upon other subjects not specifically enumerated were segregated to the state. The state, however, continued to impose a tax of 10 cents upon the \$100 value of real estate and tangible personal property for public free schools, and the localities were allowed to impose a tax not to exceed 30 cents on intangibles. By this act the state rate on intangibles was fixed at 65 cents on the \$100, with the exception of domestic municipal bonds, upon which the rate was 35 cents, and money in bank, upon which the rate was 20 cents; no locality being permitted to levy taxes upon these two classes of property. In 1916 the rate on capital used in business, which is classified as intangible property, was raised from 65 cents to 70 cents. In 1918 and 1919 special taxes for roads, schools, and tuberculosis, aggregating 15 cents, were imposed upon all property, with the exception of domestic municipal bonds and money

in bank. In 1922 the state rate on bonds, notes, and other evidences of debt was decreased from 80 cents to 35 cents on the \$100. The localities were limited to a rate not to exceed 20 cents. The franchise tax imposed upon corporations is for state purposes only. There is an extensive system of state license taxes, all of which go to the support of the state government. Cities and towns are authorized by general law to levy a license tax upon any business for which a state license is required. There are also poll taxes, inheritance taxes, both direct and collateral, taxes on incomes, wills, administrations, recordation of deeds and contracts, and on suits.

2. Where pamphlet copies of tax laws, etc., may be secured

A pamphlet copy of the Virginia Tax Laws, 1922, may be obtained from the Auditor of Public Accounts, Richmond, Virginia.

3. State taxing officials

State Tax Board, Richmond, Virginia.

4. Income tax

Incomes, whether received or merely due within the year preceding the 1st of January, are to be ascertained by the commissioner of revenue. "Income" includes all rents, salaries, interest on notes, stocks, bonds (except bonds of this state and bonds of the United States) or other evidences of debt of any corporation, firm, or individual, profits derived from business or the sale of lands, amounts realized from farming and stock-raising, and all other gains from whatever source derived.

"Deductions" from income, in addition to the sum of \$1,000 for individuals and \$2,000 for husband and wife living to-

gether, are: For each additional person entirely dependent on the taxpayer, \$400; salaries and other compensation received from the United States by employees thereof; the value of property received by gift within the year, not exceeding \$1,000; amounts received through accident or health insurance; necessary expenses paid in carrying on any profession or business; reasonable allowance for depreciation; losses not compensated for by insurance; worthless debts.

The tax is at the rate of 1 per centum on the amount of taxable income up to \$3,000, and 2 per centum on the amount of income in excess of \$3,000.

5. Classified property tax

There is a special classification of taxes provided for in the revenue laws of Virginia. That classification has not been adopted in the following analysis, because it seemed to be somewhat desirable to present the tax system in the same form as that for the other states. But as the classification used in the laws may throw some light upon the working of the system, and especially upon the relation of the different parts one to the other, an abstract of it is here presented:

(1) Taxes on lands and lots, ground rents, and rent charge.

(2) Taxable subjects:

Schedule A.—Male inhabitants, white and colored, poll tax.

Schedule B.—Personal estate (in goods and chattels), including toll bridges, turnpikes, and ferries, except steam ferries, owned and operated by a corporation.

Schedule C.—Choses in action, moneys, credits, and capital stocks.

Schedule D.—Incomes.

(3) On business and other subjects, to wit, on wills and administrations, on deeds, on suits, on seals, on banks and trust

and security companies, on insurance companies, on railroad and canal companies, on water or heat, light and power companies, on sleeping and dining car and similar companies, on express companies, on steamboat companies, and on telegraph and telephone companies.

(4) Licenses.

(a) Base

All real estate and improvements, and all personal estate situated within the commonwealth, and the moneys and credits of persons residing therein, wherever situated, except as specially exempted, are to be taxed.

Real and personal property are not specially defined for purposes of taxation, but taxable classes are enumerated in great detail.

(b) Exemptions

(1) Public property; bonds of the state issued since 1882; road and bridge bonds, locally; property for religious, cemetery, educational, hospital, nunnery, asylum, benevolent, free library, charitable, etc., purposes.

(2) Shares of stock in companies all of whose capital is taxed by the state and shares of companies which pay a franchise tax in the state.

(c) Assessment

There is but one assessment for the purpose of state and county taxation, and in cities and towns the assessment for municipal taxation is to be the same as that for the state.

The general assessment of lands throughout the state is made every five years. Assessors are appointed especially for this purpose in the counties and cities of the state, and are required forthwith to assess the fair market value of each tract and lot

of land and the improvements thereon, and to note whether the owner is white or colored.

The annual land book or list of the taxable real estate is made by the commissioners of the revenue in the several counties, cities, and districts, who ascertain to whom the real estate is chargeable with taxes as of February 1st of each year. The value of lands and lots as ascertained by the assessor is not to be changed, except on account of improvements. Each commissioner takes with him the last land book, and requires every person charged to swear to the correctness of the entry of his land and to state transfers and omissions, which information is verified by the records. Abstracts of grants, lists of deeds and lands devised, and judgments for partition or recovery of lands are supplied the commissioner by clerks of court and registers of the land office. Tracts of land in counties and town lots are taxed separately. The commissioner is to assess the value or the increase in value of any building or inclosure of the value of \$100 and upward not already assessed, and is to reduce the valuation for similar decrease in value. Where the owner of the land also owns the timber thereon, the commissioner may deduct for any decrease in the value of the woodland due to the cutting of trees to a value of \$200 or over.

Personal property is assessed annually as of February 1st by the commissioners of the revenue in the several counties, districts, and cities. Every person must fill out lists under oath of all his personal estate, moneys, credits, and capital, with the value thereof, under penalty of \$30 to \$1,000. The commissioner, upon his own view and upon information derived from sworn interrogatories answered by the taxpayer, or the best information obtainable, is to assess a fair market valuation and to make up personal property books containing lists of persons

and personal property, separate books being made up for white and colored persons, and on the assessments in these books the various levies are extended.

Mineral lands and all improvements, fixtures, and machinery thereon, are assessed annually by the commissioners of revenue, or, at the instance of the State Corporation Commission, jointly by agents of that commission and the local commissioners of revenue.

The surface of mineral land is assessed separately from the minerals, mineral waters, oil, and gas under the surface.

Debts due by the taxpayer as principal debtor to others may not be deducted from the value of any taxable property.

The real estate owned by banks (including trust and security companies) is assessed to them, but the shares of stock in these corporations are assessed to the stockholders at their market value, which is ascertained by adding together the capital, surplus, and undivided profits of each bank, less the value of real estate taxed to the bank.

If title to the bank building and land is in a holding company, the amount to be deducted from the value of the bank shares is ascertained by taking such proportion of the assessed value of said real estate as the stock the bank owns in the holding corporation bears to the whole issue of stock in such corporation. The shares are taxed at the same rate as other property. The bank is required to pay the tax on behalf of the stockholders.

The capital of domestic corporations, which is outside the state, unless the same is employed in business at a branch established outside the state, is for purposes of taxation considered as at the principal office of the company in this state. When all the capital of a corporation or joint-stock company is taxed by the state, or when a franchise tax is imposed by

the state, the shares of the individual stockholders are not further taxed.

(d) Rate

The annual state rate on real estate and tangible personal property is 25 cents on every \$100 assessed value for the support of the public free schools, construction and maintenance of roads, and prevention and eradication of tuberculosis. On intangible personal property the state rate is 35 cents on bonds and notes, 85 cents on capital, 80 cents on shares of stock of foreign corporations, and 35 cents on domestic municipal bonds.

(e) Collection

State, county, and city taxes are collected by the county and city treasurers.

Taxes are due and payable on July 1st and the treasurer attends in each magisterial district by appointment to receive them. After December 1st it is his duty to call for taxes that remain unpaid and to collect them by distress of goods and chattels or garnishment, adding thereto a penalty of 5 per cent. He may rent out real estate or may sell timber or woodland, and if there is found no property liable to distress, he is to return lists of delinquent taxes, which are then enforced by sale of lands. The lien of the state on land for taxes is paramount to that of the counties, cities, and towns, and all liens attach December 15th in the year in which the taxes are assessed.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the commonwealth, real, personal, and mixed, and any interest therein, whether belonging to the inhabitants of the commonwealth or not,

which passes by will or by the laws regulating descents and distributions, or grant, or gift (except in case of bona fide purchase for full consideration in money or money's worth), made or intended to take effect in possession or enjoyment after the death of the grantor, whether absolutely or in trust, is subject to inheritance taxation.

Property of residents and real estate of nonresidents is subject to a tax at rates ranging from 1 per cent. on amounts over \$10,000, to 5 per cent. on amounts over \$1,000,000, when the beneficiaries are husband, wife, lineal ancestor, or lineal descendant; to a tax at rates ranging from 2 per cent. on amounts over \$4,000 to 10 per cent. on amounts over \$1,000,000, when the beneficiaries are brother, sister, nephew, or niece.

Property given for state, county, municipal, educational, charitable, or religious purposes in this state, or to any corporation exempt from taxation in this state, is exempt from inheritance taxation.

Property given to any beneficiary other than those mentioned is subject to taxation at rates ranging from 5 per cent. on amounts over \$1,000 to 15 per cent. on amounts over \$1,000,000.

The personal property of nonresident decedents within the jurisdiction of the state is taxable at the rate of 2 per cent. of its value.

(b) Officials in charge of administration and collection

The inheritance tax on property of residents and real estate of nonresidents is administered by the local probate courts and is collected by the county and city treasurers. The inheritance tax on personal property of nonresident decedents is administered and collected by the auditor of public accounts, Richmond, Virginia.

(c) When inheritance taxes are due—Discount and penalties

The tax upon property of resident decedents and real estate of nonresident decedents is due one year from the date of death. No discount. If not paid when due, penalty of 20 per cent., with interest at 6 per cent. upon tax and penalty, is added.

The tax upon personal property of nonresident decedents is due at the time of transfer. No discount. If not paid at the time of transfer, interest at the rate of 10 per cent. per annum is added. If transfer is not made within four months after the owner's death, interest accrues at the expiration of four months from death.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes described above, and to organization, registration, franchise, and income taxes noted below.

(b) Organization taxes

Fee payable to State Treasurer: Upon authorized capital stock of \$50,000 or less, \$10; over \$50,000, but less than \$3,000,000, 20 cents for each \$1,000 or fraction thereof; \$3,000,000 or over, \$600.

The clerks of the courts and the Secretary of the Commonwealth shall each be entitled to receive from the persons constituting any such corporation, at the time of performing the service, for filing the papers and for all entries or records made in relation thereto, or copies thereof, double the fees provided by law for similar services in regard to deeds in any of the courts of the commonwealth. No approval of application or petition for a charter before payment of a fee of \$5 is made.

Fee to State Corporation Commission for tax on its seal and cost of entering, issuing, and certifying, \$5.

Fee to Secretary of State for recording charter, including order of State Corporation Commission, and certifying same, never less than \$3.

(c) Registration fees

Every domestic corporation, upon maximum capital stock of \$15,000 or under, shall pay into the state treasury on or before the 1st day of March, in each year, an annual registration fee of \$5; over \$15,000, but not over \$50,000, \$10; over \$50,000, but not over \$100,000, \$15; over \$100,000, but not over \$300,000, \$20; over \$300,000, \$25. Said annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by law upon said corporation for the privilege of carrying on its business in the state, or upon its franchise, property or receipts.

Franchise taxes

Payable on or before the 1st day of March of each year: When the maximum capital stock is \$25,000 and under, \$10; over \$25,000, but not over \$50,000, \$20; over \$50,000, but not over \$100,000, \$40; over \$100,000, but not over \$300,000, \$60; over \$300,000, but not over \$500,000, \$100; over \$500,000, but not over \$1,000,000, \$200; over \$1,000,000 an additional sum of \$10 for each \$100,000 or fraction thereof.

Income taxes

One per cent. on amount of taxable income up to \$3 000. and
2 per cent. on amount of taxable income in excess of \$3,000.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance, annual registration, and income taxes.

(b) Entrance fees

Every foreign corporation, when it obtains from the State Corporation Commission a certificate of authority to do business in this state, shall pay an entrance fee into the treasury of Virginia, to be ascertained and fixed as follows:

For a company whose maximum capital stock is \$50,000, or less, \$30; for a company whose capital stock is over \$50,000, and not to exceed \$1,000,000, 60 cents for each \$1,000 or fraction thereof; over \$1,000,000, and not to exceed \$10,000,000, \$1,000; over \$10,000,000, and not to exceed \$20,000,000, \$1,250; over \$20,000,000, and not to exceed \$30,000,000, \$1,500; over \$30,000,000, and not to exceed \$40,000,000, \$1,750; over \$40,000,000, and not to exceed \$50,000,000, \$2,000; over \$50,000,000 and not to exceed \$60,000,000, \$2,250; over \$60,000,000, and not to exceed \$70,000,000, \$2,500; over \$70,000,000, and not to exceed \$80,000,000, \$2,750; over \$80,000,000, and not to exceed \$90,000,000, \$3,000; over \$90,000,000, \$5,000; provided, however, that foreign corporations without capital stock shall pay \$50 only for such certificate of authority to do business in this state.

For the purpose of this act the amount to which the company is authorized by the terms of its charter to increase its capital stock shall be considered its maximum capital stock.

The fees hereinbefore required to be paid by corporations organized under the laws of a jurisdiction beyond this state, and proposing to transact business in this state shall be paid

direct into the treasury of the state, whereupon the State Corporation Commission may issue a certificate authorizing the said corporation to transact such business and conduct operations of a character to be described in said certificate within this state; but the said corporation shall not have the right to transact business or conduct operations of any character in this state until said fees have been paid, and said certificate been duly issued. Nothing contained in this section or the three preceding sections shall be construed to impose a fee for a charter, or for authority to transact business in this state, upon any company which has already paid the fee or tax heretofore imposed by law upon its charter, or for authority to transact business in this state; but this provision shall not be construed to exempt any amendment or extension of any such charter or of such authority to transact business in this state from the fees imposed by the sections hereinabove mentioned, or either of them. And the clerk of the State Corporation Commission shall, along with the order of the commission in the premises, record said certificate and the certificate of the Auditor of Public Accounts as to the payment of such fees in a proper book to be kept by said clerk for the purpose.

The commission shall, before granting any license to any foreign corporation to transact business in the state, require the payment of the fees prescribed by law, and a fee of \$5 which latter fee shall include the tax of \$1 upon the seal of the commission and a fee of \$1 for compensation of the clerk of the commission for each and every impression of the seal of the commission, the remaining \$3 to be for cost of entering, issuing, and certifying each charter, amendment, certificate of dissolution, or certificate of authority, as required by law. These fees shall be paid into the state treasury, except

that the clerk shall retain as his compensation the fee of \$1 for attesting the seal of the commission.

For the purpose of ascertaining and determining the amount of any entrance fee now or hereafter required to be paid by any foreign corporation for the purpose of procuring a certificate of authority to do business in this state, or the amount of any annual registration fee required to be paid by such foreign corporation, but for no other purpose, such shares of stock without nominal or par value shall be taken to be of the par value of \$100 each.

(c) Annual registration fees

Every foreign corporation doing business in this state, whose maximum capital stock is \$15,000, or under, and every such corporation organized on a mutual basis or without capital stock, shall pay into the treasury of the state, on or before the 1st day of March in each and every year, an annual registration fee of \$5; a corporation whose maximum capital stock is over \$15,000, and does not exceed \$50,000, shall pay an annual registration fee of \$10; a corporation whose maximum capital stock is over \$50,000 and does not exceed \$100,000, shall pay an annual registration fee of \$15; a corporation whose maximum capital stock is over \$100,000, and does not exceed \$300,000, shall pay an annual registration fee of \$20; and a corporation whose maximum capital stock exceeds \$300,000, shall pay an annual registration fee of \$25; and said annual registration fee shall be irrespective of any specific license tax or other tax or fee imposed by law upon said corporation for the privilege of carrying on its business in this state, or upon its franchise, property or receipts.

The State Corporation Commission shall ascertain from its records the amount of the authorized maximum capital stock of each of said corporations, as of the 1st day in January of

each year, and shall assess against each such corporation the registration fee herein imposed, and a certified copy of the assessment, when made, shall be forwarded by the clerk of the State Corporation Commission, before the 15th day of February, to the Auditor of Public Accounts, and to each such corporation.

The State Corporation Commission may require every domestic and foreign corporation, in the month of January in each year, and within such time as it may prescribe, to make to the commission, on forms prescribed by it, such report of the status, business and condition of each such corporation as the commission may call for.

The failure of any corporation for 2 successive years to pay its annual registration fee, or to make such report, shall, when such failure shall have continued for 90 days after the expiration of such 2 years, operate, without further proceedings, as a revocation and annulment of the charter of such corporation, if it be a domestic corporation or of its certificate of authority to do business in this state, if it be a foreign corporation, and the state corporation commission shall publish the fact of such revocation or annulment once a week for 4 consecutive weeks in a daily newspaper published in the city of Richmond, Va.

The failure of any corporation to pay its annual registration fee for any single year shall, when such failure shall have continued for 90 days after the same has been assessed, subject such corporation to a fine of not less than double the amount of such assessment, to be imposed and judgment entered therefor by the State Corporation Commission.

Income tax

Upon such income as is derived from business transacted and property located within the state at the rate of 1 per cent.

on amount of taxable income up to \$3,000, and 2 per cent. on amount of taxable income in excess of \$3,000.

(d) Taxes against owner of stock in foreign corporations

Shares of stock of a foreign corporation and not taxable in the hands of holders in Virginia, when the corporation itself pays a tax on all its capital to Virginia; otherwise, such shares are taxable.

11. Taxation of trusts and beneficiaries

Trust estates are taxed against resident trustees, whether the beneficiaries reside in Virginia or not, in which event the beneficiaries are not taxed. Resident beneficiaries are taxed upon their interests when the estate is held by a nonresident trustee.

WASHINGTON

(Revised to May 15, 1922)

1. General features of tax system

Washington depends almost entirely upon the general property tax for state, county, and municipal revenues. There is, however, an inheritance tax on both lineal and collateral transfers. No special corporation taxes are levied, except a small one on franchises and one on insurance premiums.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Revenue Laws of the State of Washington may be obtained from the Supervisor of Taxation, Olympia. Copy of Inheritance Tax Laws may be secured from the Attorney General, Olympia.

3. State taxing officials

Supervisor of Taxation, Olympia, Washington.

4. Income tax

There is no income tax in Washington.

5. General property tax

(a) Base

All property now existing or that is created or brought into the state is subject to taxation, except as expressly exempted.

"Real property," for the purposes of taxation, includes the land, and all structures and fixtures thereon, and rights and

privileges appertaining thereto; quarries, and fossils in and under the land; the operating property, except rolling stock and other movable property, belonging to railroad companies, except street railroads.

"Personal property," for the purpose of taxation, includes all goods, chattels, stocks, or estates; all improvements upon lands, the fee of which is still vested in the state or the United States, or in any railroad company.

Leases of real property and leasehold interests therein for a term less than the life of the holder shall be held to be personal property. The rolling stock and movable property of railroads and all the operating property of street railroads is assessed and taxed as personal property.

Standing timber owned separately from the ownership of the land shall be held to be personal property; also fish trap, pound net, reef net, set net, and drag seine fishing locations.

Mortgages, notes, accounts, moneys, certificates of deposit, tax certificates, judgments, and state, county, municipal, and school district bonds and warrants are not considered as property subject to taxation, and no deduction is allowed on account of an indebtedness owed.

Gas and water mains laid in roads, streets, and alleys shall be held to be personal property.

Ships registered in any United States custom house in the state and used exclusively in trade with other states and countries are not deemed property within the state nor subject to taxation.

(b) Exemptions

Public property; property for cemetery, religious, benevolent, public library, educational, charitable, etc., purposes.

(c) Assessment

In general, there is but one complete assessment roll for state, county, and municipal taxes, the county being the unit, and the assessment is made with reference to March 1.

Real property is assessed biennially in the even-numbered years; the list and valuation being made by the assessor, but corrections are made annually. Personalty is assessed annually on the basis of a detailed list made by the taxpayer under oath. The assessor, however, fixes the "true and fair" value, which is that which the property would bring at private sale. The penalty for failure to furnish a list or for a false list is \$10 to \$2,000.

The county assessors meet annually with the state board of tax commissioners to confer upon means of improving the method of assessing property.

Public lands not being devoted to the public use, benefited by local improvements, may be assessed and taxed therefor, the same as other property.

The real and personal property of corporations are by the Constitution to be assessed as that of individuals.

Bank stock is assessed to the owners in the town where the bank is located, whether the owner is there resident or not; a proportionate part of the value of real estate of the bank being deducted. The bank pays these taxes.

(d) Rate

The state board of equalization apportions the amount of tax for state purposes among the several counties in proportion to the valuation as equalized by the board. The tax is levied, however, upon the valuation fixed by the local officials, and the county auditor fixes the rate necessary to raise the amount so apportioned and places the same on the tax rolls of

the county. The maximum tax for general state purposes is not to exceed 3 mills on the dollar of the property valuation of the entire state as determined by the state board of equalization.

For the purpose of raising revenue for the repair and construction of highways and bridges, a tax of one-half mill on the dollar of all taxable property in the state shall be levied. For county road and bridges, not to exceed 4 mills. For permanent and public highways, not to exceed 1½ mills (1921).

(e) Collection

In general, all taxes for state, county, municipal, school, road, and other purposes are extended upon the tax books of the county, and the county treasurer is the receiver and collector. Taxes on real estate are a lien on the property from the assessment day, March 1, and are due May 31, after which date they become delinquent, and 15 per cent. interest is charged. If, however, they are paid before March 15, a rebate of 3 per cent. is allowed, or, if one-half is paid before May 31, the rest may go over until November 30.

Taxes on personal property are a lien on all real and personal property after the first Monday in February, the day on which they become due. If they are not paid on or before the 15th day of March, the county sheriff may distrain the goods and chattels, with interest at the rate of 15 per cent. from the 15th day of March.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass by will or by the statutes of inheritances of this or any

other state, or by deed, grant, sale, or gift made in contemplation of the death of the grantor or donor, or by deed, grant, or sale, or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor, to any person, in trust or otherwise, shall, for the use of the state, be subject to a tax after the payment of all debts owing by the decedent at the time of his death, as follows:

Property passing to father, mother, husband, wife, lineal descendants, adopted child, or lineal descendant thereof, at rates ranging from 1 per cent. on amount over exemption to \$50,000 to 5 per cent. on amount over exemption over \$250,000; \$10,000 is exempt to entire class of above enumerated beneficiaries. Brother, sister, uncle, aunt, nephew, or niece, at rates ranging from 3 per cent. on amount up to \$50,000 to 9 per cent. on amount over \$250,000.

All others are taxed at rates ranging from 6 per cent. on amount up to \$50,000 to 15 per cent. on amount over \$250,000.

Property passing for eleemosynary, charitable, educational, or philanthropic purposes, is entirely exempt.

All property of nonresidents within state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

Attorney General, Olympia, Washington.

(c) When inheritance taxes are due—Discount and penalties

Due at date of death. No discount. If not paid within 15 months, interest is added at rate of 8 per cent., except for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes, described above, and to organization and franchise taxes.

(b) Organization taxes

Are limited to filing fee of \$25.

Private car, express, and insurance companies are subject to special forms of privilege or license taxes.

(c) Franchise taxes

On or before the 1st day of July of each and every year, corporations must pay \$15 to the Secretary of State.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and annual franchise taxes.

(b) Entrance fees

Every corporation incorporated under the laws of this state, or of any state or territory of the United States, or of any foreign state or country, required by law to file articles of incorporation in the office of Secretary of State, shall pay to the Secretary of State a filing fee of \$25.

Every corporation, foreign or domestic, desiring to file in the office of the Secretary of State articles amendatory or supplemental, or certificates of increase or decrease of capital stock, shall pay to the Secretary of State a fee of \$10.

Every foreign corporation filing in the office of the Secretary of State a certificate of the appointment of an agent residing in this state, or a certificate of the revocation of such

appointment of agent, shall pay to the Secretary of State a fee of \$5.

(c) Annual franchise taxes

Every corporation incorporated under the laws of this state, and every foreign corporation having its articles of incorporation on file in the office of the Secretary of State, shall, on or before the 1st day of July of each and every year, pay to the Secretary of State, for the use of the state, the following license fees: Every corporation having a capital stock, \$15. Every corporation failing to pay the said annual license fee, on or before the 1st day of July of each and every year, and desiring to pay the same thereafter, and before the 1st day of January next following, shall pay to the Secretary of State, for the use of the state, in addition to the said license fee, the following further fee, as a penalty for such failure: The sum of \$2.50: Provided, however, that building and loan companies paying special fees provided for in the act under which same are incorporated shall not be required to pay the regular fee provided herein.

No corporation shall be permitted to commence or maintain any suit, action, or proceeding in any court of this state without alleging and proving that it had paid its annual license fee last due. A certificate of the payment of such annual license fee, or any duplicate of such certificate under the seal of the Secretary of State, shall be prima facie evidence of such payment, and the Secretary of State is hereby required to issue such duplicate certificates, upon request, at a charge of 25 cents for each thereof.

WEST VIRGINIA

(Revised to May 15, 1922)

1. General features of tax system

West Virginia depends primarily on the general property tax for county and municipal purposes, and on an extensive system of taxes and licenses on various acts, businesses, and occupations for state purposes; the general property tax for state purposes being almost entirely removed. There are, besides, inheritance taxes on both direct and collateral heirs, and a system of annual license or franchise taxes on corporations, including insurance, telegraph, telephone, and express companies. There is a poll tax for both the school and road fund. A sales tax was enacted in 1921.

2. Where pamphlet copies of tax laws, etc., may be secured

Apply to State Tax Commission for copy of Business-Profession Tax Laws and Regulations.

3. State taxing officials

State Tax Commissioner, Charleston, West Virginia.

4. Income tax—Business-Profession Tax Law, sometimes referred to as the "Gross Sales" Tax Law

There is no income tax in West Virginia. The law passed April 29, 1921, approved by the Governor May 3, 1921, and effective July 1, 1921, is called the "Business-Profession Tax Law," commonly, but, in a large measure, erroneously, refer-

red to as the "Gross Sales Tax Law." This law requires from every person, copartnership, association, and corporation (hereinafter referred to as "person") a return and tax as follows:

(1) From miners and producers in West Virginia of coal, oil, natural gas, limestone, sand, or other mineral produce. *Basis of tax:* The value of the articles produced, as shown by the gross proceeds derived from the sale thereof by the producer, whether their sale occurs in West Virginia or elsewhere, or whether shipped to points within or to points without West Virginia. *Tax rate:* Two-fifths of 1 per cent. on such value so ascertained.

(2) From every person engaging or continuing within West Virginia in the business of manufacturing, compounding, or preparing for sale any article or articles, substance or substances, commodity or commodities. *Basis of tax:* The value of the articles, substances, or commodities manufactured or prepared for sale, whether their sale occurs in West Virginia or elsewhere, or whether shipped to points within or to points without West Virginia, as shown by the gross proceeds derived from the sale thereof by the producer. *Tax rate:* One-fifth of 1 per cent. of such value.

(3) From the seller of any tangible property whatsoever, real or personal (not including, however, bonds or other evidence of indebtedness, or stocks), in the state of West Virginia. *Basis of tax:* Gross proceeds of such sales. *Tax rate:* One-fifth of 1 per cent.

(See section 2 (b) of the law as to basis of tax for wholesalers or jobbers. The basis for such is the gross profits, instead of gross sales, as in other cases; the tax rate being one-third of 1 per cent. on such gross profits.)

(4) From banks and public utilities. *Basis of tax:* Entire

gross income as to banks—discounts, interest, exchange, and sales of services of every character, rentals, dividends, and all other receipts derived from the operation of the business of the bank. As to public utilities—such gross income derived from intrastate business. *Tax rate:* The tax in both cases, one-fifth of 1 per cent.

(5) From every person not included in the four paragraphs preceding and engaged in any gainful business in West Virginia. *Basis of tax:* The gross income derived from such business. *Tax rate:* One-fifth of 1 per cent.

(6) From every person engaged in professional practice in the state of West Virginia. *Basis of Tax:* The gross income derived from such practice. *Tax rate:* One-fifth of 1 per cent.

Returns are to be filed with the State Tax Commissioner annually, if the amount of tax to be paid does not exceed \$100, and quarterly if the amount of tax exceeds \$100. The annual return must be made within 30 days from the end of a fiscal year which may be one ending either June 30 or December 31. Extension may be granted for good cause shown to the Tax Commissioner. Quarterly returns must be filed within 30 days from the end of the period to be covered. No extension is granted for filing quarterly returns.

5. General property tax

(a) Base

All property in the state is subject to taxation, unless specially exempted.

"Real property," includes all interest in land and its appurtenances, except chattel interests and chattels real.

"Personal property" includes all fixtures attached to land, if not included in the valuation of land; all things of value,

movable and tangible, which are subjects of ownership; money, credits, investments, and all chattels, real and personal; all personal property belonging to residents of the state, whether situated in or out of the state, and all personal property in the state, although owned by persons residing out of the state, is subject to taxation. But personal property permanently located in another state, where it is subject to taxation, is not to be taxed here.

"Money" includes, not only coin, but all notes, tokens, or papers which circulate or are used in ordinary transactions as money or currency, and deposits which, either in terms or effect, are payable in money on demand.

"Credits" includes all claims and demands, whether owing upon bond, note, certificate, book account, or otherwise, and whether due or not, whether payable in money, property, labor, or services, except only such demands as are included in the term "money."

"Investments" includes stocks, bonds, and securities of the United States or this state, or any other state, nation, or government, or of any city, town, county, district, railroad, or other corporation; any share, portion, interest, or stock in the capital, joint fund, assets, or profits of any company, whether incorporated or not, or in a steamboat or other vessel, or in any adventure, business, or undertaking.

(b) Exemptions

Public property; property for religious, cemetery, library (public and family) educational, charitable, and benevolent purposes.

(c) Assessment

There is, in general, but one assessment for state, county, and municipal purposes. The county is the assessment district.

All property is assessed annually as of the 1st day of January, at its true and actual value. Taxpayers are required to list their property under oath, and to declare the value of each item, subject to revision by the assessors and boards of review and equalization.

Failure to render statement subjects the taxpayer to a penalty of double assessment and to loss of remedy for correction of assessment; a false list renders taxpayers liable to forfeiture, for each year, of 10 per cent. of the property not listed at any time during five previous years. Refusal to be examined by the assessor is subject to a penalty of \$25 to \$100.

The assessor, at the time of making assessment of property, collects the school and road capitation taxes, and is allowed 10 per cent. commission for collecting same. Delinquent capitation taxes are reported to the sheriff for collection.

Real property subject to a mortgage or deed of trust to secure a debt or liability is assessed to the mortgagor until the mortgagee or trustee takes possession, after which he is deemed the owner. Personal property mortgaged or pledged is likewise assessed to the party who has possession.

In listing money, credits, or investments, the debts owed as principal debtor may be deducted, but not those for which the taxpayer is liable merely as surety, indorser, or guarantor, unless the principal debtor is insolvent. Investments are to be rated at their market or proper value. Solvent credits, if interest-bearing, are to be listed at the amount of principal and interest, or, if the solvency be doubtful, at the probable worth.

The property of corporations generally, except as otherwise shown below, is assessed to the company in the same manner as that of individuals, and the shareholders of such corporations are not assessed with their shares or interest in the capital stock.

The shares of stock of banks, trust companies, or national banking associations are assessed where the banks are located, to the several holders thereof. Debts of shareholders, when sworn to, may be deducted from the assessment.

(d) Rate

The rate of taxation for state and state school purposes is fixed by the board of public works at not less than 1 and not more than 10 cents on the \$100. Rate of state levy is fixed by section 62, chapter 32, Code.

(e) Collection

Both state and county taxes are collected by the sheriff of the county, or by collectors appointed by the auditor.

Taxes are a lien on real estate from the time the assessment is made, and are due and payable during October and November at a discount of $2\frac{1}{2}$ per cent., during December at face, and after January 1 interest is added at the rate of 10 per cent. per annum. Delinquent taxes may be collected by distraint of personal property, by garnishment of money or property in the hands of another, and by sale of lands by the sheriff.

Taxes assessed by the board of public works on railroads and other corporations, both state and local, are collected by the state auditor, and, if delinquent on the 20th of January, are then collected by the sheriff, with a penalty of 10 per cent.

7. Inheritance taxes

(a) General scope and rates

A tax, payable into the treasury of the state, is imposed upon the transfer, in trust or otherwise, of any property, or interest therein, real, personal, or mixed, of \$500 or more, if such transfer be—

(a) By will or by laws of this state regulating descents and distributions, from any person who is a resident of the state at the time of his death, and who shall die seized or possessed of property.

(b) By will or by laws regulating descents and distributions on property within the state, or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death.

(c) By a resident, or of property within the state, or within its jurisdiction, by a nonresident, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, bargainor, or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale, or gift, made within three years prior to the death of the grantor, bargainor, vendor, or donor, of value of \$500, or in excess thereof, at the time of such transfer in the nature of final disposition or distribution of an estate, and without adequate valuable consideration, shall be construed to have been made in contemplation of death within the meaning of this chapter. This provision shall apply to all transfers heretofore made within the period of three years from the time this act becomes effective.

(d) If any person shall transfer any property which he owns, or shall cause any property, to which he is absolutely entitled, to be transferred to or vested in himself and any other person jointly, so that the title therein, or in some part thereof, vest no survivorship in such other person, a transfer shall be deemed to occur and to be taxable under the provisions of this act upon the vesting of such title.

(e) Whenever any person shall exercise a power of appointment derived from any disposition of property made, whether before or after the passage of this act, such appointment when made shall be deemed a transfer, taxable under the pro-

visions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will, and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the person thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, and shall take effect at the time of such omission or failure.

Property or any beneficial interest therein passing to widow, mother, husband, child, children of deceased child, father, or mother, is taxed at rates ranging from 2 per cent. on amount over \$10,000 (over \$15,000 for widow) to \$50,000 to 7 per cent. on amount over the foregoing exemption over \$500,000. Brother or sister (does not include brother or sister of the half blood), taxed at rates ranging from 4 per cent. on amount up to \$50,000 to 14 per cent. on amount over \$500,000.

Person or persons further removed in relationship from decedent than brother or sister, taxed at rates ranging from 6 per cent. on amount up to \$50,000 to 21 per cent. on amount over \$500,000.

Persons not blood relatives, strangers, institutions, corporate or otherwise, except such as are exempt, at rates ranging from 10 per cent. on amount up to \$50,000 to 35 per cent. on amount over \$500,000.

It should be borne in mind, however, that the inheritance tax law of West Virginia taxes the beneficial interest as a unit, instead of the estate as a unit, an estate frequently being di-

vided into several beneficial units, and the rates are applied to each beneficial interest, starting with the primary rate in each case; hence the possibility of applying the maximum rates is far removed from actual practice.

Property passing for educational, literary, scientific, religious, charitable, or public purposes used exclusively within state, is entirely exempt.

All property of nonresidents within the state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

State Tax Commissioner, Charleston, West Virginia.

(c) When inheritance taxes are due—Discount and penalties

Due within 90 days after qualification of executor or administrator, or within 4 months of death. No discount. If not paid in six months, 10 per cent. is added; also interest at 10 per cent. per annum from date of death, but Tax Commission may suspend liability to pay for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the business-profession tax and to general property taxes, described above, and to organization and franchise taxes, noted below.

(b) Organization taxes

Fees to Secretary of State:

Charter fee, \$10. Certifying copy of charter, \$10.

Annual license for fraction of remaining tax year; for rate of tax, see Franchise Taxes below.

If the corporation intends to hold more than 10,000 acres of land in West Virginia, a tax of 5 cents per acre for each acre over 10,000 must be paid to the Secretary of State. Resident corporation, filing appointment of statutory attorney \$3; nonresident corporation, to State Auditor, for acting as resident attorney, if the charter is granted in July, August, or September, \$10 for the year to July 1st next succeeding; in October, \$9; in November, \$8; in December, \$7; in January, \$6; in February, \$5; in March, \$4; in April, \$3; in May, \$12, including fee for the next year; in June, \$11, including fee for the next year.

(c) Franchise taxes

An annual license tax is imposed on the authorized capital of resident and nonresident corporations at the following rates: Not exceeding \$5,000, \$20; not exceeding \$10,000, \$30; not exceeding \$25,000, \$40; not exceeding \$50,000, \$50; not exceeding \$75,000, \$80; not exceeding \$100,000, \$100; not exceeding \$125,000, \$110; not exceeding \$150,000, \$120; not exceeding \$175,000, \$140; not exceeding \$200,000, \$150; over \$200,000, but not over \$1,000,000, \$180, and an additional 20 cents on each \$1,000 or fraction thereof in excess of \$200,000; over \$1,000,000, \$340, and an additional 15 cents on each \$1,000 or fraction thereof in excess of \$1,000,000.

No par value stock is presumed to be of the par value of \$25 per share.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to the business-profession tax and to general property taxes, as above, on property in the state, and to entrance and franchise taxes, described below.

(b) Entrance fees

Every such corporation shall file with the Secretary of State a copy of its articles of association or certificate of incorporation. The Secretary of State shall issue to every such corporation complying with the provisions of this section, a certificate of the fact of its having done so, which certificate shall be filed and recorded in the office of the clerk of the county court of the county, or one of the counties, in which its business is conducted. Such corporation shall also file in the said clerk's office a copy of its charter, which shall be recorded therein. No railroad or other corporation, which has a charter or any corporate authority from any other state, shall do business in this state as the lessee of the works, property, or franchises of any other corporation or person, or otherwise, or bring or maintain any action, suit, or proceeding in this state, until it shall, in addition to what is hereinbefore required, file in the office of the Secretary of State, a writing, duly executed under its corporate seal, accepting the provisions of this section, and agreeing to be governed thereby, and its failure so to do may be pleaded in abatement of any such action, suit or proceeding; but nothing herein contained shall be construed to lessen the liability of any corporation, which may not have complied with the requirements of this section, upon any contract or for any wrong.

The Auditor of this State shall be, and he is hereby, constituted the attorney in fact for and on behalf of every foreign corporation doing business in this state and of every nonresident domestic corporation, with authority to accept service of process on behalf and upon whom service of process may be made in this state for and against every such corporation. No act of such corporation appointing the auditor such attorney in fact shall be necessary.

The post office address of such corporation shall be filed with the power of attorney, and there shall be filed with the auditor from time to time statements of any change of address of such corporation.

(c) Annual franchise taxes

Every foreign corporation holding property or doing business in this state shall make report to the auditor annually.

It shall be the duty of the auditor to assess and fix the license tax of such corporation according to the proportion of its capital stock which is represented by its property owned and used in this state, which license tax shall be at the rate prescribed in section 5 of this act, plus 50 per centum of such tax: Provided, that no such corporation shall pay an annual license tax of less than \$150.

The rate prescribed is as follows: If authorized capital stock be \$5,000 or less, \$20; if more than \$5,000 and not more than \$10,000, \$30; if more than \$10,000 and not more than \$25,000, \$40; if more than \$25,000 and not more than \$50,000, \$50; if more than \$50,000 and not more than \$75,000, \$80; if more than \$75,000 and not more than \$100,000, \$100; if more than \$100,000 and not more than \$125,000, \$110; if more than \$125,000 and not more than \$150,000, \$120; if more than \$150,000 and not more than \$175,000, \$140; if more than \$175,000 and not more than \$200,000, \$150; if more than \$200,000 and not more than \$1,000,000, \$180, plus 20 cents on each \$1,000 or fraction thereof in excess of \$200,000; if more than \$1,000,000, \$340, plus 15 cents on each \$1,000 or fraction thereof in excess of \$1,000,000.

For the purpose of the assessment of the license tax provided by this section, and for no other purpose, shares of stock having no par value shall be presumed to be of the par value of twenty-five dollars each: Provided, however, that

if such stock was originally issued for a consideration greater than \$25 per share such license taxes as are required to be paid to the auditor under the provisions of certain sections, shall be computed upon the basis of the consideration for which such stock was issued. Thereafter, on or before the 1st day of the license tax year next following the date of the certificate of authority and on or before every succeeding first day of the license tax year, the auditor shall collect such tax for a full year. And on or before this said 1st day of July, for each year, such corporation shall pay to the auditor the like sum of \$10 for his services as such attorney.

(d) Taxes against owner of stock in foreign corporations

Section 66 of chapter 29 of the Code of West Virginia provides as follows: "When the property, stock or capital of any company, whether incorporated or not, is assessed to such company, no person owning any share, portion, or interest therein shall be required to list the same or be assessed with the valuation thereof." The State Tax Commissioner applies this section to all corporations, whether foreign or domestic. In other words, if the property, stock, or capital of any corporation, foreign or domestic, is assessed to such company, either in West Virginia or in another jurisdiction, shares of stock therein are not listed or assessed in the name of the holder thereof.

11. Taxation of trusts and beneficiaries

Trust estates are assessed and taxed in the name of the beneficiaries thereof; but it is the duty of trustees, when in possession of the trust estate, to make return to the assessor for purposes of taxation. The property is not listed in the names of both the trustees and the beneficiaries.

WISCONSIN

(Revised to May 15, 1922)

1. General features of tax system

Wisconsin depends principally upon the general property tax for county and municipal revenue, and for state revenue when there is a deficiency in corporation taxes paid directly into the state treasury for the support of the state government. Railroad, express, sleeping car, freight line, and telegraph companies are all assessed by the Tax Commission on the ad valorem basis and taxed under the general property law. License fees on the gross receipts of telephone and insurance companies are imposed in lieu of all other taxes, except those on real estate. The inheritance tax law adopted in 1899 was declared unconstitutional in 1902. The Legislature of 1903 passed a new inheritance tax law which has been upheld by the court. The poll tax is a local road tax only. An income tax law was enacted by the Legislature in 1911. It has been amended by legislative sessions in 1913, 1915, 1917, 1919, and 1921.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Wisconsin Income Tax Law, Inheritance Tax Laws, General Property Taxes, and Taxation of Public Utilities and Insurance Companies, may be obtained by addressing the Wisconsin Tax Commission, Madison. Pamphlet copies of the Statutes of Wisconsin relating to Do-

mestic and Foreign Corporations may be obtained by addressing the Secretary of State, Madison.

3. State taxing officials

Wisconsin Tax Commission, Madison, Wisconsin.

4. Income tax

(a) General scope

Every person residing in Wisconsin and every nonresident, upon such income as is derived from property located or business transacted within the state, is subject to income tax.

In general, all persons must make their returns for the income received during the calendar year; but firms, copartnerships, corporations, etc., may, by securing the consent of the Tax Commission, base returns upon fiscal years other than calendar years.

(b) Definitions and what income is taxable

The term "person," as used in the act, includes any individual, firm, copartnership, and every corporation, joint-stock company, or association organized for profit, and having a capital stock represented by shares, unless otherwise expressly stated.

The term "income," as used in the act, includes:

(1) All rent of real estate.

(2) All dividends derived from stocks, and all interest derived from money loaned or invested in notes, mortgages, bonds, or other evidence of debt of any kind whatsoever: Provided, that the term "dividends," as used in this section, shall be held to mean any distribution made by a corporation, joint-stock company, or association, out of its earnings or profits ac-

crued since January 1, 1911, and paid to its shareholders, whether in cash or in stock of the corporation, joint-stock company, or association.

(3) All wages, salaries, or fees derived from services: Provided, that compensation to public officers for public service shall not be computed as a part of the taxable income in such cases where the taxation thereof would be repugnant to the Constitution.

(4) All profits derived from the transaction of business or from the sale of real estate or other capital assets: Provided, that for the purpose of ascertaining the gain or loss resulting from the sale or other disposition of property, real or personal, acquired prior to January 1, 1911, the fair market value of such property as of January 1, 1911, shall be the basis for determining the amount of such gain or loss.

(5) All royalties derived from mines, or the possession or use of franchises or legalized privileges of any kind.

(6) And all other gains, profits, or income of any kind derived from any source whatever, except such as hereinafter exempted.

(7) Persons engaged in business within and without the state shall be taxed only upon such income as is derived from business transacted and property located within the state, which may be determined by an allocation and separate accounting for such income when made in form and manner prescribed by the Tax Commission.

(c) Rate

The following table of rates is from the notes explanatory of the Income Tax Law, issued by the Wisconsin Tax Commission:

CORPORATIONS

| Taxable Income. | Rate Per Cent. | Tax. | Total Income Taxed. | Total Tax. | True Rate on Whole Amount in Even Thousands. |
|-------------------|----------------|---------|---------------------|------------|----------------------------------------------|
| 1st \$1,000..... | 2 | \$20.00 | \$ 1,000 | \$ 20.00 | 2% |
| 2d \$1,000..... | 2½ | 25.00 | 2,000 | 45.00 | 2.25 |
| 3d \$1,000..... | 3 | 30.00 | 3,000 | 75.00 | 2.5 |
| 4th \$1,000..... | 3½ | 35.00 | 4,000 | 110.00 | 2.75 |
| 5th \$1,000..... | 4 | 40.00 | 5,000 | 150.00 | 3. |
| 6th \$1,000..... | 5 | 50.00 | 6,000 | 200.00 | 3.3333 |
| 7th \$1,000..... | 6 | 60.00 | 7,000 | 260.00 | 3.7143 |
| 8th \$1,000..... | 6 | 60.00 | 8,000 | 320.00 | 4. |
| 9th \$1,000..... | 6 | 60.00 | 9,000 | 380.00 | 4.2222 |
| 10th \$1,000..... | 6 | 60.00 | 10,000 | 440.00 | 4.4 |
| 15th \$1,000..... | 6 | 60.00 | 15,000 | 740.00 | 4.9333 |
| 20th \$1,000..... | 6 | 60.00 | 20,000 | 1,040.00 | 5.2 |

INDIVIDUALS

| | Taxable Income. | Rate Per Cent. | Tax. | Total Income Taxed. | Total Tax. | True Rate on Whole Amount. |
|-----------|-----------------|----------------|---------|---------------------|------------|----------------------------|
| 1st..... | \$1,000 | 1 | \$10.00 | \$ 1,000 | \$ 10.00 | 1% |
| 2d..... | 1,000 | 1¼ | 12.50 | 2,000 | 22.50 | 1.125 |
| 3d..... | 1,000 | 1½ | 15.00 | 3,000 | 37.50 | 1.25 |
| 4th..... | 1,000 | 1¾ | 17.50 | 4,000 | 55.00 | 1.375 |
| 5th..... | 1,000 | 2 | 20.00 | 5,000 | 75.00 | 1.5 |
| 6th..... | 1,000 | 2½ | 25.00 | 6,000 | 100.00 | 1.6667 |
| 7th..... | 1,000 | 3 | 30.00 | 7,000 | 130.00 | 1.8571 |
| 8th..... | 1,000 | 3½ | 35.00 | 8,000 | 165.00 | 2.0625 |
| 9th..... | 1,000 | 4 | 40.00 | 9,000 | 205.00 | 2.2778 |
| 10th..... | 1,000 | 4½ | 45.00 | 10,000 | 250.00 | 2.5 |
| 11th..... | 1,000 | 5 | 50.00 | 11,000 | 300.00 | 2.7273 |
| 12th..... | 1,000 | 5½ | 55.00 | 12,000 | 355.00 | 2.9582 |
| 13th..... | 1,000 | 6 | 60.00 | 13,000 | 415.00 | 3.1923 |
| 15th..... | 1,000 | 6 | 60.00 | 15,000 | 535.00 | 3.5667 |
| 20th..... | 1,000 | 6 | 60.00 | 20,000 | 835.00 | 4.175 |

(d) Exemptions

(1) There shall be exempt from taxation under this act income as follows:

(a) To an individual, income up to and including \$800.

(b) To husband and wife, \$1,200.

(c) For each child under the age of 18 years, \$200.

(d) For each additional person, who is actually supported by and entirely dependent upon the taxpayer for his support, \$200.

(e) Dividends from state banks, national banks, mutual savings banks, and trust companies subject to taxation by Wisconsin.

(f) Pensions received from the United States.

(g) All inheritances, devises, bequests, and gifts received during the year.

(h) All insurance received by any person or persons in payment of a death claim by any insurance company, fraternal benefit society, or other insurer. But endowment or other insurance, paid to the insured in his lifetime, shall be taxable upon the excess received over the amount paid for the insurance.

(2) Income of state banks, national banks, mutual savings banks, trust companies, mutual loan corporations, and building and loan associations, and of all religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit.

(3) Incomes derived from property and privileges by persons now required by law to pay taxes or license fees directly into the treasury of the state in lieu of taxes, and such persons shall continue to pay taxes and license fees as heretofore. This provision exempts from the payment of income tax:

Railroad companies, palace and sleeping car companies, freight line and equipment companies, express companies, street railway companies, including connected electric light, heat, and power companies, telegraph companies, fire insurance companies, life insurance companies, accident, surety, etc., companies, telephone companies, title guaranty companies, and conservation and regulation companies.

Dividends paid by the foregoing corporations are taxable to stockholders in Wisconsin, since the income of the corporations is not taxable.

(f) Deductions allowed corporations

(a) Wages and salaries, if reasonable in amount; (b) other ordinary and necessary expenses and cash bonuses to employees, allowance for depreciation for use, wear and tear of property, and interest paid during year in the operation of business from which income is derived; (c) losses actually sustained from the operation of the business within the year, and not compensated for by insurance or otherwise, provided the income derived from the business or property be subject to taxation; (d) taxes, including federal; (e) dividends on stocks, where the corporation has paid a tax on its income; (f) gifts.

Deductions allowed individuals

(a) Wages and a reasonable allowance for salaries of partners, etc.; (b) ordinary and necessary expenses; (c) losses; (d) dividends; (e) interest on indebtedness; (f) pensions; (g) taxes; (h) inheritances; (i) life insurance; (j) bank dividends; (k) gifts.

(g) Returns and payment of tax

Separate forms are furnished by the Tax Commission for (1) return of income for individuals; (2) return for farmers, dairymen, etc.; (3) return for firms and copartnerships; (4) return for fiduciaries; (5) return for corporations.

Returns for other than corporations must be filed on or before March 1st in the district in which tax is to be assessed. Corporate returns must be filed on or before February 15th with the Wisconsin Tax Commission, Madison. The Tax Commission may grant the right to report income on a fiscal year basis.

Taxes are assessed and added to general property taxes. Advance payment of income tax is provided for.

Taxes added to income taxes:

Computed on the basis of the foregoing income taxes, three other surtaxes are added, namely: (a) Soldiers' bonus surtax; (b) soldiers' educational bonus surtax; and (c) teachers' retirement fund surtax. These taxes are computed as follows:

(1) Individuals:

The soldiers' bonus surtax, in case of individuals, is found by deducting from the normal income tax \$37.50, representing the amount of the normal tax on the first \$3,000 of income which is not subject to tax. The surtax on an income in excess of \$3,000 is computed at the same rates as the normal tax.

The soldiers' educational surtax is found by deducting from the normal income tax as computed on taxable income the sum of \$37.50 and dividing the remainder by 5. The quotient is the surtax.

The teachers' retirement fund surtax is computed as the soldiers' educational surtax is computed, except that the divisor to be used is 6, instead of 5.

(2) *Corporations:*

The soldiers' bonus surtax is found by deducting from taxable income 6 per cent. of capital, surplus, and undivided profits, and computing the tax on the remainder at corporation income tax rates.

The soldiers' educational surtax is one-fifth of the soldiers' bonus surtax.

The teachers' retirement fund surtax is found by deducting \$75, the corporation tax on the first \$3,000 of taxable income, from the normal income tax, and dividing the remainder by 6. The quotient is the surtax.

5. General property tax

(a) Base

All property in the state, except such as is exempted, is subject to this tax.

"Real property" includes, not only the land itself, but all buildings, fixtures, improvements, rights, and privileges appertaining thereto.

"Personal property" includes toll bridges, sawlogs, timber, and lumber, either upon land or afloat; steamboats and ships at home or abroad; buildings upon leased lands, if not assessed with the lands; ferryboats, including their franchises; ice, cut and stored; and all goods, wares, chattels, and effects having any real or marketable value, not included in the term "real property." Since 1907 the assessors have been specifically charged with the duty of ascertaining the number and value of all automobiles, and assessing them as personal property.

Improvements on homestead lands of settlers on the public domain are to be assessed as personal property.

Treated as personal property is all property, including real

estate and franchises, owned or used by railroad, express, and telegraph companies, and by persons or corporations engaged in supplying municipalities with water, electric light, and gas, as well as all property used in the improvement of navigation of public streams or the conservation and regulation of height and flow of waters in public reservoirs.

(b) Exemptions

(1) Property owned by the United States or by the state of Wisconsin.

(2) Lands occupied for free public libraries, parks, and property owned by religious, educational, etc., associations, or cemeteries.

(3) The property of Indians who are not citizens, except lands held by them by purchase.

(4) Pension receivable from the United States.

(5) All moneys or debts due or to become due to any person, and all stocks and bonds, including bonds issued by any county, town, city, village, school district, or other political subdivision of Wisconsin.

(6) Wearing apparel, etc., habitually worn, not exceeding in value \$750, family portraits, private libraries, not exceeding in value \$200, household furniture, etc., and growing crops, tools of mechanics, and various other articles.

(7) All property, except real estate, of telephone and trust or annuity companies, and all property of title guaranty and toll roads companies.

(8) Property occupied for various religious and charitable purposes.

(9) Real estate, not exceeding 40 acres nor less than 20 acres, actually devoted to agricultural purposes, by a bona fide settler occupying the same as a homestead, shall be exempt from

taxation for a period of three years from the commencement of such occupation: Provided, that such real estate at the time of such acquisition is entirely uncleared and unimproved.

(c) Assessment

The assessment or valuation of property, with the exception of railroads, street railways, telegraph lines, and property of sleeping car and express companies, which is assessed by the State Tax Commission, is made by the local assessors in the towns, villages, and cities, and refers in the case of real estate to any date between May 1 and the time of the sitting of the board of review; in the case of personal property to the 1st day of May, except that sawlogs, timber, railway ties, or telegraph poles owned by nonresidents, may be assessed at any time during April. A separate roll by counties is made up by the State Board of Assessment and is the basis of the apportionment of state taxes.

Real and personal property is to be valued annually by the assessor, either from actual view or the best information available, at the full value that could be obtained at private sale.

Real property belonging to benevolent associations, and leased to another, which would be exempt, if used by such associations, is assessed to the lessee.

Real property omitted from assessment in any year may be assessed for such year during any of the three next succeeding years.

The assessor enters, in separate columns, land; improvements, including such fixtures as are not included under personal property; and in other columns the several classes of personal property. He has authority to examine the taxpayer under oath as to personal property. If the assessor has reason to believe that there is other property liable to taxation,

he may add to the aggregate valuation of personal property such amount as he estimates to be just and equitable.

Shares of stock in incorporated banks, and in trust, annuity, and guaranty companies, as well as the capital of every private bank, are liable to assessment and taxation as personal property in the district where the bank or other institution is located. This tax may be paid by the bank or company, in which case it has a lien on the shares of stock for the amount of taxes paid. The tax on shares and capital is in lieu of all taxes on the bank's surplus, property, and assets, except real estate.

In assessing shares of stock in any incorporated bank, the assessor determines their total true cash value according to his best judgment; if the bank owns its banking building, the assessed value thereof, including the land upon which the building is located, if owned by the bank, is deducted from the total value of such shares. The remainder, or the whole thereof, if the bank does not own such building, divided by the total number of shares, is taken as the valuation for assessment of such shares. No deduction is made on account of any other real estate. There is no direct assessment of the personal property of banks.

Corporations, except when otherwise provided, are assessed on their property in the same manner as individuals. Stock in corporations so taxed is not taxable.

The Tax Commission also exercises general supervision over the administration of the assessment and tax laws of the state, and advises and directs the assessors, boards of review, etc., in their work. When petition has been made by owners of not less than 5 per cent. of the taxable property in the district, and after a summary hearing, it shall appear to the Tax Commission that the assessment of property in any assessment district is not in substantial compliance with law, and that the public

interests will be promoted by reassessment, the commissioners have authority to order a reassessment of all the taxable property in such district to be made by persons appointed for that purpose by said commissioners.

(d) Rate

The Legislature provides for such annual tax upon the aggregate valuation of the state as is sufficient to meet the estimated expenses of the state for each year, and the deficiency, if any, from the previous year. The sum to be raised is apportioned by the Secretary of State among the several counties in proportion to the relative valuation of the property in each county as determined by the State Board. To this are added tax levies by counties, towns, cities, and school districts, which comprise over 90 per cent. of the tax burden. The maximum county rate is 1 per cent.

(e) Collection

All taxes for state, county, school, and local purposes are collected by town, city, or village treasurers. Taxes become a lien upon lands from the date of warrant in the tax roll authorizing the collection.

Taxes not paid by February 1 are subject to a penalty of 2 per cent., which is paid into the treasury together with the tax. The treasurer may collect by distraint and sale of goods or chattels or bring an action to collect the tax on personal property. Lands upon which taxes are unpaid are returned as delinquent to the county treasurer, and such county treasurer after advertising such sale may sell on the third Tuesday in May any lands upon which taxes are delinquent.

Where lands are sold on or before January 1, the tax, unless otherwise by contract provided, is charged to the grantee; where sold after January 1, to the grantor.

7. Inheritance taxes

(a) General scope and rates

A tax is imposed upon any transfer of property, real, personal, or mixed, or any interest therein, or income therefrom, in trust or otherwise, to any person, association, or corporation, except county, town, or municipal corporations within the state, for strictly county, town, or municipal purposes, and corporations of this state organized under its laws, or voluntary associations organized solely for religious, charitable, or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, in the following cases, except as hereinafter provided:

(1) When the transfer is by will or by the intestate laws of this state, from any person dying possessed of the property while a resident of the state.

(2) When a transfer is by will or intestate law, of property within the state or within its jurisdiction, and the decedent was a nonresident of the state at the time of his death.

(3) When the transfer is of property made by a resident or by a nonresident, when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale, or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death. Every transfer by deed, grant, bargain, sale, or gift, made within six years prior to the death of the grantor, vendor, or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall be construed to have been made in contemplation of death, within the meaning of this section.

(4) Such tax shall be imposed when any such person or cor-

poration becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this act: Provided, that property or estates which have vested in such persons or corporations before this act shall take effect, shall not be subject to a tax: And provided, further, that contingent interests created by the will of any person who died prior to the passage of this act shall not be taxed.

(5) Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after the passage of sections 1087—1 to 1087—24, inclusive, such appointment, when made, shall be deemed a transfer taxable under the provisions of sections 1087—1 to 1087—24, inclusive, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of sections 1087—1 to 1087—24, inclusive, shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

(6) Whenever any property, real or personal, is held in the joint names of two or more persons, or as tenants by the entirety, or is deposited in banks or other institutions or depositaries in the joint names of two or more persons, and payable

to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer of one-half or other proper fraction thereof, taxable under the provisions of this chapter in the same manner as though the property to which such transfer relates belonged to the tenants by the entirety, joint tenants, or joint depositors as tenants in common, and had been bequeathed or devised to the surviving tenant by the entirety, joint tenant or joint tenants, person or persons, by such deceased tenant by the entirety, joint tenant, or joint depositor, by will.

(7) Insurance payable upon the death of any person shall be deemed a part of his estate for the purpose of the tax and shall be taxable to the person or persons entitled thereto.

(8) The tax so imposed shall be upon the clear market value of such property at the rates hereinafter prescribed, and only upon the excess of the exemptions hereinafter granted.

Upon property or any beneficial interest therein passing to wife, husband, lineal issue, lineal ancestor, adopted child, mutually acknowledged child, or lineal issue of adopted or mutually acknowledged child, the tax ranges from 2 per cent. on amount over exemption to \$25,000 to 10 per cent. on amount over exemption over \$500,000. The exemption to each of the above enumerated beneficiaries is \$2,000, except wife, who is entitled to \$25,000.

Brother, sister, descendant of brother or sister, wife of son, widow of son, or husband of daughter, at rates of taxation ranging from 4 per cent. on amount over \$500 to \$25,000 to 20 per cent. on amount over \$500,000.

Brother or sister of father or mother or descendant there-

of, at rates of taxation ranging from 6 per cent. on amount over \$250 to \$25,000 to 30 per cent. on amount over \$500,000.

Brother or sister of grandfather or grandmother, or descendant thereof, at rates of taxation ranging from 8 per cent. on amount over \$150 to \$25,000 to 40 per cent. on amount over \$500,000.

All others, at rates of taxation ranging from 8 per cent. on amount over \$100 to \$25,000 to 40 per cent. on amount over \$500,000.

Property for religious, educational, municipal, or charitable purposes within the state is entirely exempt from tax.

All property of nonresidents within the state is subject to same rate of taxation as property of residents.

(b) Official in charge of administration and collection

Wisconsin Tax Commission, Madison, Wisconsin.

(c) When inheritance taxes are due—Discount and penalties

Due at time of transfer. Discount of 5 per cent. is allowed, if paid within one year. After 18 months from date tax is due, 10 per cent. interest is added from due date; but rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes, described above, and to organization and income taxes, noted below.

(b) Organization taxes

Fees to Secretary of State:

Filing and recording articles of incorporation, \$1 on each \$1,000 of authorized capital, but in no case less than \$25, ex-

cept mining companies, which pay a minimum of \$150, and beet sugar and dairy companies, which pay a fee of \$10 on any capital.

Fees to Register of Deeds:

Recording articles of incorporation, from 5 cents to 20 cents per folio. Certificate of record, 25 cents.

(c) Income tax

There is no annual franchise tax. An annual income tax is imposed. See 4 above.

Telephone and insurance corporations are subject to special forms of privilege or license taxes.

10. Foreign corporation taxes

(a) In general

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance and income taxes, noted below.

(b) Entrance fees

Such corporation shall pay into the office of the Secretary of State, upon filing its articles of association or incorporation, a fee of \$25, and \$1 for every \$1,000 of its capital stock exceeding \$25,000 employed or to be employed in this state, as shown by its sworn statement.

(c) Annual income taxes

Annual income tax on taxable income from sources within the state. See 4 above.

(d) Taxes against owner of stock in foreign corporations

Stock is exempt from general property tax. See 5 (b) above. Dividends from foreign corporations are exempt to the extent

that the foreign corporation itself pays income taxes to Wisconsin; otherwise, not.

11. Taxation of trusts and beneficiaries

General property taxes are assessed against a trustee in his representative capacity. He is personally liable to pay the tax, having a right of action therefor against the beneficiaries and a lien on the property. Trustees also make return of income tax. For example, of income taxation of a business trust estate, see *State ex rel. Mariner v. Hampel*, 172 Wis. 67, 178 N. W. 244 (1920); section 129, *Sears, Trust Estates as Business Companies*.

WYOMING

(Revised to May 15, 1922)

1. General features of tax system

Wyoming draws its state revenues primarily from the general property tax. A state inheritance tax law was enacted in 1903. There are no special taxes on corporations, except insurance companies. Counties draw also from poll and license taxes, while the municipal revenues are drawn chiefly from the general property tax and business taxes, licenses, and fees.

2. Where pamphlet copies of tax laws, etc., may be secured

Pamphlet copies of the Corporation Laws of the State of Wyoming, containing the taxes on corporations, may be obtained by addressing the Secretary of State, Cheyenne. Pamphlet copies of the Tax Laws of the State may be obtained from the State Board of Equalization, Cheyenne. Copy of the Inheritance Tax Law may be secured from the Inheritance Tax Commissioner, Cheyenne.

3. State taxing officials

State Board of Equalization, Cheyenne, Wyoming.

4. Income tax

There is no income tax in Wyoming.

5. General property tax

(a) Base

All property, real and personal, not exempted by law, is subject to taxation.

"Real property," includes land, possessory claims, buildings and improvements, ferries, franchises, and toll bridges.

"Personal property" includes domestic animals and dogs, bank deposits and specie, credits, mortgages, stock, securities, annuities, and all other property not specified.

(b) Exemptions

The property of the United States, and of this state, the property of any county township, incorporated cities, towns, and school districts.

(1) Public property; public libraries, churches, parsonages, public grounds and cemeteries, etc. Property for hospital, asylum, charitable, and benevolent purposes.

(2) "Coupon or registered interest-bearing bonds of the state of Wyoming, or any county, school district, or municipality of the state of Wyoming, shall be exempt from taxation when owned by actual residents of the state: Provided, that the owner or owners of such securities shall list the same annually on their assessment schedule, describing such bonds and the amount thereof, and shall mark, opposite thereto, on schedule, 'Exempt.'" Section 2755, Compiled Statutes 1920.

(3) Household furniture, wearing apparel, etc., to the value of \$100.

(4) "The property of all honorably discharged veterans of the Civil War, the Spanish-American War, and the World War, and their widows during their widowhood, and all nurses who served during the World War, to the amount of two thousand dollars in assessed valuation: Provided, that no person shall be entitled to the exemption provided for in this section except he or she be a bona fide resident of the state of Wyoming." Section 2753.

(5) The owner of live stock shall be exempt from paying the proportionate amount of taxes which he would otherwise have

to pay for the time that such live stock are grazing in some other state. Section 2830.

(6) All mortgages, upon property within the state, whether real or chattel, together with the indebtedness thereby secured: Provided, that the mortgaged property, whether real or personal, shall be taxed at its true value.

(c) Assessment

There is one assessment list for state and county taxes, and another list for city and town taxes. The assessment roll for the state and county taxes is made up annually by the county assessor on the basis of schedules made out by him or his deputies, but sworn to by the owner. The basis of assessment is the actual or full cash market value as of April 1, except that the valuation of property may be fixed or limited by the State Board of Equalization. The penalty for refusing to make oath as to the correctness of the list, or for failing to list all property, is the doubling of the ordinary assessed valuation. Live stock is assessed at an average valuation per head, which is fixed by the State Board of Equalization.

Bona fide debts may be deducted from credits, except notes given as premiums of insurance, unpaid subscriptions to institutions or societies, or unpaid subscriptions to capital stock.

Capital and surplus of banks and banking associations, except national banks, doing business in the state, are assessed for taxation. The amount of capital actually invested in real estate shall be deducted from the total and such real estate assessed for taxation at its actual value. Shares of stock in national banks are assessed to the owners at their par value.

The gross product of all mines and mining claims from which gold, silver, and other precious metals, soda, saline, coal, mineral oil, or other valuable deposit is produced, is to be re-

turned by the owner and assessed for taxation by the State Board of Equalization. The tax on such products is in addition to taxes assessed on surface improvements and in lieu of taxes upon the land.

Personalty brought, driven, or coming into the state prior to the last day of each year, which remains for a period of not less than 30 days, is assessed in the same manner as if it had been in the county at the time of the annual assessment: Provided, it has not been assessed in some other county for that year.

All live stock upon the open range, for the purpose of taxation, has its situs in the county in which is located the "home range." If the "home range," of any herd or brands of live stock is located in two or more counties, the assessment is apportioned. Live stock is to be assessed in the county where located on the 1st day of April, or, if brought into the state after that date, in the county where first brought in. The owner of any live stock which is to be brought into the state after the 1st day of April is required to give 10 days' notice by registered letter of the removal of the stock to the assessor of the county into which the stock is first to be brought. The owner of any live stock which has been assessed must give notice to the county clerk of any removal from the county, and a copy of this notice is transmitted by this officer to the clerk of the county where the stock is to be taken.

(d) Rate

The rate for state revenues, except for the support of state educational and charitable institutions, and for the payment of the state debt and the interest thereon, is limited by the Constitution to 4 mills on the dollar, and the tax to be levied and collected by each county is at this rate, unless a lower one is determined by the State Board of Equalization.

(e) Collection

All state, county, and school district taxes are due and payable, without demand, after the third Monday in September, at the office of the county treasurer. When, through error, property has been omitted from taxation, the back tax can be collected, without interest, for five years past, or, in case property has changed hands in the meantime, back to the time when the present owner came into possession.

After December 31 all unpaid taxes are delinquent, and a penalty of 8 per cent. is added, and the whole draws interest at that rate. Taxes are a lien on personal property assessed, and on real property for both real and personal taxes, from December 31. Delinquent taxes are collected by distress and sale.

7. Inheritance taxes

(a) General scope and rates

All property within the jurisdiction of the state of Wyoming, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of the state of Wyoming or not, which shall pass by will, or by laws regulating intestate succession, or by deed, grant, or gift, except in cases of a bona fide purchase for full consideration in money or money's worth, made in contemplation of the death of the grantor or donor, or made or intended to take effect in possession or enjoyment after his death, and any beneficial interest therein which shall arise or accrue by survivorship in any form of joint ownership, in which the decedent joint owner contributed during his life any part of the property held in such joint ownership, or of the purchase price thereof, to any person, absolutely or in trust, except to or for the use of charitable, educational, or religious societies or institutions, the property of which is by the laws

of the state of Wyoming exempt from taxation, or for or upon trust for any charitable purposes to be carried out within the state of Wyoming, or to or for the use of the state of Wyoming or any town therein for public purposes, is subject, as to the estate passing to each of the following beneficiaries, to a tax at the percentage rates fixed as follows:

Property passing to father, mother, husband, wife, child, brother, sister, wife of a son, widow of a son, husband of daughter, adopted child, mutually acknowledged child, or lineal descendant born in lawful wedlock. The rate of tax is 2 per cent. on amount over \$10,000.

All others, at the rate of 5 per cent. on the entire estate, if over \$500; if less than \$500, entirely exempt.

All property of nonresidents in state is subject to same rate of tax as property of residents.

(b) Official in charge of administration and collection

Inheritance Tax Commissioner, Cheyenne, Wyoming.

(c) When inheritance taxes are due—Discount and penalties

Due at death; 5 per cent. discount is allowed if paid within one year; 8 per cent. interest is added from date when due, if not paid within one year, but interest rate may be reduced to 6 per cent. for period of unavoidable delay.

9. Domestic corporation taxes

(a) In general

Corporations are subject to the general property taxes, described above, and to organization taxes, noted below. There is no annual franchise tax.

(b) Organization taxes**Fees to Secretary of State:**

Filing and recording certificate of incorporation, on authorized capital not exceeding \$10,000, \$10; over \$10,000, and not over \$25,000, \$15; over \$25,000, and not over \$50,000, \$20; over \$50,000, and not over \$100,000, \$25; for each additional \$1,000, 20 cents. Filing proof of publication, \$1. Filing appointment of agent, \$2.50. Certifying copy, 15 cents per folio of 100 words and \$1 for certificate.

Fees to county clerk:

Filing certificate of incorporation, 65 cents for the first 100 words, 10 cents per folio, if excess—about \$2.50. Filing certificate of payment of capital stock, about \$1.50. Publishing notice of incorporation, three insertions, brevier type, not to exceed 10 cents per line, single column, for first insertion; not to exceed 8 cents per line for subsequent insertions.

10. Foreign corporation taxes**(a) In general**

Foreign corporations are subject to general property taxes, as above, on property in the state, and to entrance fees. There is no annual franchise tax.

(b) Entrance fees**Fees to Secretary of State:**

Filing certified copy of charter—on authorized capital not exceeding \$10,000, \$10; over \$10,000 and not over \$25,000, \$15; over \$25,000 and not over \$50,000, \$20; over \$50,000 and not over \$100,000, \$25; each additional thousand, 20 cents per thousand.

In the case of corporations having shares without par value, the tax is based at the same rates on a valuation determined in

the alternative by either of the following methods which will yield the larger result to the state:

(a) Such corporation shall file with the Secretary of State a sworn statement by its treasurer or other fiscal agent, setting forth the actual value of the net assets of the corporation, which statement may be investigated and verified by the Secretary of State, whenever he may deem such verification needful.

(b) The number of shares of authorized capital stock of such corporation shall be estimated at \$100 per share.

Filing certified copy of corporation laws, \$1. Filing acceptance of Constitution, \$2.50. Filing appointment of agent, \$2.50. Filing amendments, \$5, if capital stock is not increased.

Fees to county clerk:

Filing certified copy of corporation laws, \$1. Filing certified copy of charter, \$1. If capital stock is increased in either foreign or domestic corporations, fee for increase is the same as for original filings of company capitalized at amount of increase. See circulars, furnished upon request by Secretary of State.

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